



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

खण्ड 26] शिमला, शनिवार, 30 दिसम्बर, 1978/9 पौष, 1900 [संख्या 52

विषय-सूची		
भाग 1	वैधानिक नियमों को छोड़ कर हिमाचल प्रदेश के राज्यपाल और हिमाचल प्रदेश हाई कोर्ट द्वारा अधिसूचनाएं इत्यादि	1518—1521
भाग 2	वैधानिक नियमों को छोड़ कर विभिन्न विभागों के अध्यक्ष और जिजा मैजिस्ट्रेटों द्वारा अधिसूचनाएं इत्यादि	1521—1522
भाग 3	अधिनियम, विधेयक और विधेयकों पर प्रवर समिति के प्रतिबन्धन, वैधानिक नियम तथा हिमाचल प्रदेश के राज्यपाल, हिमाचल प्रदेश हाई कोर्ट, फाइनैशियल कमिशनर तथा कामन्वेल्थ ऑफ इन्कम्प-टैक्स द्वारा अधिसूचित आदेश इत्यादि	1522
भाग 4	स्थानीय स्वायत्त शासन: म्युनिसिपल बोर्ड, डिस्ट्रिक्ट बोर्ड, नोटिफाइड एरिया बोर्ड और एरिया तथा पंचायती राज विभाग	—
भाग 5	वैयक्तिक अधिसूचनाएं और विज्ञापन	1523—1527 तथा 1581
भाग 6	भारतीय राजपत्र इत्यादि में से पुनः प्रकाशन	1528—1581
भाग 7	भारतीय निर्वाचन आयोग (Election Commission of India) की वैधानिक अधिसूचनाएं तथा अन्य निर्वाचन सम्बन्धी अधिसूचनाएं	—
—	अनुसूचक	—

30 दिसम्बर, 1978/9 पौष, 1900 को समाप्त होने वाले सप्ताह में निम्नलिखित विज्ञापित प्रकाशण राजपत्र, हिमाचल प्रदेश में प्रकाशित हुईं:—

विज्ञापित की संख्या	विभाग का नाम	विषय
संख्या ई० एल० एन०-ऊना (एफ) 2-2/78-III, दिनांक 29 नवम्बर, 1978.	कार्यालय जिलाव्यवस्था, जिना ऊना, ऊना	जिला ऊना के विकास खण्ड ऊना
-यथैव-	-यथैव-	जिला ऊना के विकास खण्ड अम्बर
-यथैव-	-यथैव-	जिला ऊना के विकास खण्ड मगरेट
-यथैव-	-यथैव-	जिला ऊना के विकास खण्ड धुन्वला स्थित बंगाणा।

की समस्त पंचायतों के नव-निर्वाचित: प्रधान, उप-प्रधान और पंचों के नामों का जन-प्रशासन को सूचनाई प्रदान।।

भाग 1.—अधिनियमों को छोड़ कर हिमाचल प्रदेश के राज्यपाल और हिमाचल प्रदेश हाई कोर्ट द्वारा अधिसूचनाएं इत्यादि

हिमाचल प्रदेश हाईकोर्ट NOTIFICATIONS

Simla-1, 29th November, 1978

No. HHC/GAZ/14-72/76.—The Hon'ble the Chief Justice and Judges are pleased to grant earned leave for 62 days with effect from December 1, 1978 to January 31, 1979 to Shri Inder Ram, Subordinate Judge-cum-Judicial Magistrate, Sarkaghat, District Mandi (Himachal Pradesh).

Certified that after expiry of the above leave the officer is likely to join the same post and at the same station from where he proceeds on leave.

Also certified that Shri Inder Ram would continue to officiate as Subordinate Judge-cum-Judicial Magistrate but for his proceeding on leave.

Simla-1, the 1st December, 1978

No. HHC/GAZ/14-52/75.—The Hon'ble the Chief Justice and Judges are pleased to order the following posting and transfers in the public interest, with immediate effect:—

- (1) Shri D. S. Negi, Traffic Magistrate, Simla is transferred and posted as Subordinate Judge-cum-Judicial Magistrate, Rampur, Himachal Pradesh against the vacant post.
- (2) Shri B. D. Sharma, Traffic Magistrate, Mandi is transferred and posted as Subordinate Judge-cum-Judicial Magistrate, Una against the vacant post.

2. Both these officers will relinquish the charge of their posts immediately and join their new places of postings after availing of usual joining time.

Simla-1, the 2nd December, 1978

No. HHC/Admn. 16(13)/74.—In exercise of the powers vested in them by section 139(b) of the Code of Civil Procedure, the Hon'ble the Chief Justice and Judges of the High Court of Himachal Pradesh are pleased to appoint for a period of two years from the date of issue of this notification, the following Advocates as Oath Commissioners for the places mentioned against their names, for administering oath/affirmation on affidavits, to the deponents under the said Code, in accordance with the terms specified in paragraph 5, Chapter 12-B, Punjab High Court Rules and Orders, Vol. IV, as applied to Himachal Pradesh:

Sl. No.	Name	Places
1.	Shri Prakash Singh, Advocate.	Rohru, District Simla.
2.	Shri Dharam Chand, Advocate.	-do-

Simla-1, the 6th December, 1978

No. HHC/Admn. 6-22/74.—In exercise of the powers vested in them by sub-section (5) of section 9 of the Code of Criminal Procedure, 1973 and section 28 of the Himachal Pradesh Courts Act, 1976, the Hon'ble the Chief Justice and Judges are pleased to order that the Additional District and Sessions Judge, Kangra shall dispose of urgent Civil and Criminal matters pertaining to Kangra Sessions Division which may lie to or are pending in the Court of the District and Sessions Judge, Kangra Division, with effect from 9-12-1978 to 31-12-1978 or until such time the District and Sessions Judge, Kangra at Dharamsala returns from leave.

Simla-1, the 13th December, 1978

No. HHC/GAZ/14-38/74.—The Hon'ble the Chief Justice and Judges are pleased to grant 13 days earned leave with effect from December 26, 1978 to January 12, 1979 with permission to prefix and suffix holidays falling on December 24, and 25, 1978 and January 13 and 14, 1979 in favour of Mrs. Aruna Kapoor, Sub-Judge-cum-Judicial Magistrate 1st Class, Simla, Himachal Pradesh.

Certified that Mrs. Aruna Kapoor would have continued to officiate as Subordinate Judge-cum-Judicial Magistrate, Simla, Himachal Pradesh but for her proceeding on leave.

Also certified that Mrs. Aruna Kapoor will join the same post and at the same station from where she proceeds on leave.

By order
H. D. KAIN

हिमाचल प्रदेश सरकार

सामान्य प्रशासन विभाग

अधिसूचना

शिमला-171002, 29 नवम्बर, 1978

सं० जी० ए० डी० (जी०-आई०) 6(एफ०)-44/78-सी०.—
हिमाचल प्रदेश सरकार ने शिक्षा मन्त्री महोदय के विभागों के लिए विधान सभा सदस्यों की एक परामर्श समिति (कनसल्टेटिव कमिटी) का गठन करने का निर्णय लिया है। इस समिति के निम्नलिखित सदस्य होंगे:—

क्रम सं०	नाम	अवस्था
1.	श्री दीनत राम चौहान, शिक्षा मन्त्री	अध्यक्ष
2.	श्री मोहन लाल, विधायक	सदस्य
3.	श्री दीनत राम सांख्यान, विधायक	सदस्य
4.	श्री नारायण चन्द, विधायक	सदस्य
5.	श्री देव राज, विधायक	सदस्य
6.	श्री श्री सुजान सिंह, विधायक	सदस्य
7.	श्री राधा रमण शास्त्री, विधायक	सदस्य
8.	श्री जोगिन्द्र पाल, विधायक	सदस्य
9.	श्री श्रीम चन्द, विधायक	सदस्य

आवश्यकतानुसार इस परामर्श समिति की समय-समय पर बैठक बुलाई जाएगी।

3 इस समिति का कार्यकाल इस के गठन की तिथि से एक वर्ष की अवधि के लिये होगा।

शिमला-2, 29 नवम्बर, 1978

सं० जी० ए० डी० (जी०-आई०) 6(एफ०)-44/78-सी०.—
हिमाचल प्रदेश सरकार ने राज्य मन्त्री, पंचायत के विभाग के लिए विधान सभा सदस्यों की एक परामर्श समिति (कनसल्टेटिव कमिटी) का गठन करने का निर्णय लिया है। इस समिति के निम्नलिखित सदस्य होंगे:—

क्रम सं०	नाम	अवस्था
1.	श्री रूप सिंह, राज्य मन्त्री, पंचायत	अध्यक्ष
2.	श्री मित्तल राज, विधायक	सदस्य
3.	श्री योग राज, विधायक	सदस्य
4.	श्री हरदयाल, विधायक	सदस्य
5.	श्री कुंज लाल, विधायक	सदस्य
6.	श्री दिले राम, विधायक	सदस्य
7.	श्री मय देव वुशहरी, विधायक	सदस्य

2. आवश्यकतानुसार इस परामर्श समिति की समय-समय पर बैठक बुलाई जाएगी।

3. इस समिति का कार्यकाल इस के गठन की तिथि से एक वर्ष की अवधि के लिए होगा।

शिमला-171002, 29 नवम्बर, 1978

सं० जी० ए० डी० (जी०-आई०) 6(एफ०)-44/78-सी०.—
हिमाचल प्रदेश सरकार ने राज्य मन्त्री, खाद्य एवं आपूर्ति के

विभागों के लिये विधान सभा सदस्यों की एक परामर्श समिति (कान्ट्रोलिंग कमेटी) का गठन करने का निर्णय लिया है। इस समिति के निम्नलिखित सदस्य होंगे:—

क्रम सं० नाम

1. कुमारी श्यामा शर्मा, राज्य मंत्री ... अध्यक्ष
(गाय एवं आपूर्ति)
2. श्री भास्करा नन्द, विधायक .. सदस्य
3. श्री नारायण सिंह, विधायक .. सदस्य
4. श्री चमन लाल, विधायक ... सदस्य
5. श्री रंगीला राम, विधायक .. सदस्य
6. श्री राम रतन, विधायक .. सदस्य
7. श्री जान चन्द मिन्हास, विधायक .. सदस्य

2. आवश्यकतानुसार इस परामर्श समिति की समय-समय पर बैठक बुलाई जाएगी।

3. इस समिति का कार्यकाल इसके गठन की तिथि से एक वर्ष की अवधि के लिये होगा।

ग्राम यादव,
सचिव।

उद्यान विभाग

अधिसूचना

सिमला-171002, 6 दिसम्बर, 1978

संख्या 16-32/74-होट-0-सैक्ट 0—विभागीय पदोन्नति की शिका-रियों पर राज्यपाल, हिमाचल प्रदेश, डाक्टर के 0 सी 0 आज़ाद को जो कि उद्यान विभाग में स्थाई उप-निदेशक, उद्यान हैं को संयुक्त निदेशक उद्यान (राजपत्रित श्रेणी-I) के पद पर रु 0 1300—1600 के वेतनमान में अस्थाई रूप में तत्काल सर्व पदोन्नत करने की इजाज़त है।

2. डाक्टर आज़ाद इस पद पर दो वर्षों तक परख अवधि पर रहेंगे।

जान चन्द,
अवर सचिव।

स्वास्थ्य एवं परिवार कल्याण विभाग

अधिसूचनाएं

सिमला-2, 1 दिसम्बर, 1978

क्रमांक 1-146/69-एच 0 एफ 0 डब्ल्यू 0—राज्यपाल, हिमाचल, प्रदेश, डा 0 एच 0 आर 0 डे 0 700-40-900/40-1100-50-1300 रुपये के वेतनमान में 900 रुपये की स्टेज पर दिनांक 1-11-75 से दक्षतारोध पार करने की अनुमति प्रदान करते हैं। दिनांक 1-11-75 को डा 0 एच 0 आर 0 डे 0 को वेतन 940 रुपये हो जायेगा।

सिमला-2, 1 दिसम्बर, 1978

क्रमांक एच 0 एफ 0 डब्ल्यू 0 बी 0 (3)-3/78—राज्यपाल, हिमाचल प्रदेश, डा 0 प्रमोद शंकर शुक्ला, सह आचार्य बायो कैमिस्ट्री को

900-50-1150/50-1300 रुपये के वेतनमान में 1150 रुपये की स्टेज पर दिनांक 1-1-78 में दक्षतारोध पार करने की अनुमति प्रदान करते हैं। दिनांक 1-1-78 को डा 0 प्रमोद शंकर शुक्ला को वेतन 1290 रुपये हो जायेगा।

अमर नाथ विद्यार्थी,
सचिव (जिकिस्वा शिफा)।

PUBLIC WORKS DEPARTMENT

NOTIFICATIONS

Simla-171002, the 3rd November, 1978

No. 9-12/73-PW-B.—Whereas it appears to the Governor, Himachal Pradesh that land is likely to be required to be taken by the Himachal Pradesh Government at the public expense for a public purpose, namely for the construction of Moorang link road, it is hereby notified that land in the locality described below is likely to be acquired for the above purpose.

This notification is made under the provisions of section 4 of the Land Acquisition Act, 1894 to all whom it may concern.

In exercise of the powers conferred by the aforesaid officers for the time being engaged in the undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

Any person interested, who has any objection to the acquisition of the said land in the locality may, within thirty days of the publication of this notification, file an objection in writing before the Collector of Land Acquisition, Himachal Pradesh Public Works Department, Kalpa, District Kinnaur.

SPECIFICATION

District: KINNAUR

Tehsil: MOORANG

Village 1	Khasra No. 2	Area	
		Big. 3	Bis. 4
MOORANG	2025/1	0	9

Simla-2, the 7th November, 1978

No. 9-10/73-PW(B).—Whereas it appears to the Governor of Himachal Pradesh that the land is required to be taken by the Government at public expense for a public purpose, namely for construction of Pump House for Lift Irrigation Scheme Kuddi Bharanthu, it is hereby declared that the land described in the specification below is required for the above purpose.

2. The declaration is made under the provisions of section 4 of the Land Acquisition Act, 1894 to all whom it may concern and under the provisions of section 4 of the said Act, the Collector, Land Acquisition, Himachal Pradesh Public Works Department is hereby directed to take order for the acquisition of the said land.

3. A plan of the land may be inspected in the office of the collector, Land Acquisition, Himachal Pradesh Public Works Department, Simla-1.

SPECIFICATION

District: BILASPUR

Tehsil: SADAR

Village 1	Khasra No. 2	Area	
		Big. 3	Bis. 4
KUDDI	160/1	0	12

By order,
B. C. NEGI,
Commissioner-cum-Secretary.

Whereas it appears to the Governor, Himachal Pradesh, that land is likely to be required to be taken by the Himachal Pradesh Government at the public expense for a public purpose*, it is hereby notified that the land in the locality described below is likely to be acquired for the said* purpose.

This notification is made under the provisions of section 4 of the Land Acquisition Act, 1894 to all whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Governor, Himachal Pradesh is pleased to authorise the officers for the time being engaged in the undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required on permitted by that section.

Any person interested, who has any objection to the acquisition of the land in the locality may, within thirty days of the publication of this notification, file an objection in writing before the Collector of Land Acquisition, Himachal Pradesh Public Works Department, Mandi and Kulu districts. Mandi.

** Construction of Mandi Kanhwal Road.*

No. 9-9/73 PW-B. Simla-2, the 10th November, 1978

SPECIFICATION

District: MANDI

Tehsil: SADAR

Village 1	Khasra No. 2	Big.	Bis.	Area Biswas 3 4 5
CHANWARI	86/1	0	8	8
	87/1	0	9	3
	83/1	0	4	2
	88/1	0	0	8
	89	0	2	14
	90	0	5	12
	95/1	0	3	8
	96/1	0	1	4
	100/1	0	4	15
	101/1	0	2	17
	99/1	2	0	8
Total	..	4	2	19
TILLY	16	0	5	19
	17	0	6	6
	23/1	0	0	14
	22/1	0	5	2
	24	0	1	13
	21	0	0	10
	25.1	0	1	2
	25/1	0	2	5
	26	0	0	8
	27	0	1	0
	28	0	1	2
	591/1	0	1	14
	591/2	0	3	10
	589/1	0	0	15
	590/1	0	2	7
	581/1	1	0	5
	579	0	1	12
	598/1	0	1	2
	595/1	0	1	15
	596/1	0	2	3
	577/1	0	0	12
	578/1	0	1	8
	575	0	3	1
	574	0	1	16
	572/1	0	1	16
	573/1	0	1	15
	605/1	0	2	11
	606/1	0	1	4
	594.1	0	1	5
	559/1	0	0	12
	624/1	0	0	15
	541/1	0	0	9

1	2	3	4	5
	540/1	0	1	13
	625/1	0	0	10
	536/1	0	3	11
	535/1	0	0	14
	534/1	0	2	8
	531/1	0	6	1
	530/1	0	1	13
	529/1	0	2	19
Total	..	4	18	5

** Construction of Lift Irrigation Scheme Baluara-II Road*

No. 9-9/73/PW-B. Simla-171002, the 13th November, 1978
SPECIFICATION

District: MANDI

Tehsil: SARKAGHAT

MATAUR TANDA	18/1	0	7	92
Total	..	0	7	92

CORRIGENDUM

Simla-171002, the 4th December, 1978

No. 9-14/73-PW 'B'.—The notification issued vide this department letter of even number, dated 19-10-1978 regarding construction of Bhuntar Bridge and approaches—acquisition of land thereof the following words may be substituted:

1. Against khasra No. 4284 the area is 3 bighas and not 13 biswas.
2. The name of the work is "Construction of approach road to Bhuntar bridge right bank and not the left bank".
3. The name of the village is "Shamshi" and not the Phati 'Shilliger'.

NOTIFICATION

Simla-171002, the 4th December, 1978

No. 9-10/73/PW-'B'.—Whereas it appears to the Governor, Himachal Pradesh that the land is likely to be required to be taken by the Himachal Pradesh Government at the public expense for a public purpose, namely for L.I.S. KASHOL, it is hereby notified that land in the locality described below is likely to be acquired for the above purpose.

This notification is made under the provisions of section 4 of the Land Acquisition Act, 1894 to all whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Governor, Himachal Pradesh is pleased to authorise the officers for the time being engaged in the undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

Any person interested who has any objection to the acquisition of the said land in the locality may, within thirty days of the publication of this notification, file an objection in writing before the Collector of Land Acquisition Collector, U.S. Club, Simla-1.

SPECIFICATION

District: BILASPUR

Tehsil: GHUMARWIN

Village 1	Khasra No. 2	Area Big. Bis. 3 4
KASHOL	172/1	0 4
	173/1	0 5
Kitta	2	0 9

By order,
B. C. NEGI,
Commissioner-cum Secretary.

TRANSPORT DEPARTMENT

NOTIFICATION

Simla-171002, the 18th November, 1978

No. TPT. 6-13/76.—Whereas a draft of the proposal directions under sub-section (1) of section 43 of the Motor Vehicles Act, 1939 (Act No. IV of 1939), inviting objections/suggestions from all persons likely to be affected by such directions was published in the Rajpatra, Himachal Pradesh (Extraordinary) dated the 23rd September, 1978, vide notification of even number, dated the 18th September, 1978;

AND whereas no objection/suggestion whatsoever have been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 43 of the Motor Vehicles Act, 1939 (Act No. IV of 1939) and all other powers enabling him in this behalf, the Governor of Himachal

Pradesh is pleased to issue to the State Transport Authority of Himachal Pradesh, the following directions regarding the fixation of rates of fare for mini-buses in Himachal Pradesh, namely:—

DIRECTIONS

The State Transport Authority shall ensure that the following rates of fare for mini-buses are fixed in the areas mentioned below:—

All metalled/unmetalled roads in hills other than those in Kinnaur and Kulu Districts (excluding portion of Pathankot-Manali route) and all roads in the Lahaul and Spiti District.	10.5 Paise per passenger per kilometre.
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ATTAR SINGH,
Secretary.

भाग 2—वैधानिक नियमों को छोड़ कर विभिन्न विभागों के अध्यक्षों और जिला मैजिस्ट्रेटों द्वारा अधिसूचनाएं इत्यादि

INDUSTRIES DEPARTMENT
FORM 'Q'

Bilaspur, the 13th December, 1978

No. Bp/GM/163/2802-2.—Whereas a notice was served on Sh. Ram Lal s/o Chajju Ram, Village Tandora Post Office Bharari, District Bilaspur, Himachal Pradesh on 20th December, 1976 under section 23 of the Himachal Pradesh State Aid to Industries Act, 1971 calling upon the said Shri Ram Lal to pay to me the sum of Rs. 715 plus interest due before 15-1-1977 and whereas the said sum has not been paid, I hereby declare that the sum of Rs. 715 plus interest due is due from the said Shri Ram Lal and that the property described in the attached schedule is liable for the satisfaction of the said debt.

SCHEDULE

All assets present and to be hereinafter acquired by the loanee whether the said assets are now or in future in his name including book debts, stocks, shares premises, machinery and equipment whether existing or to be purchased with the aid of loan or a part thereon and any other personal security of the loanee or self-owned shop of Shri Ram Lal consisting 6 rooms standing on land measuring 0-6 bighas at Village Dakri, Post Office Ghumarwin, District Bilaspur.

P. K. BHARDWAJ,
General Manager,
District Industries Centre, Bilaspur.

PUBLIC WORKS DEPARTMENT

NOTIFICATIONS

Whereas it appears to the Governor, Himachal Pradesh that the land is likely to be taken by the Himachal Pradesh Government at the public expense for a public purpose*, it is hereby notified that land in the locality described below is likely to be acquired for the said* purpose.

This notification is made under the provisions of section 4 of the Land Acquisition Act, 1894 to all whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Governor, Himachal Pradesh is pleased to authorise the officers for the time being engaged in the undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

Any person interested who has any objection to the acquisition of the said land in the locality may, within 30 days of the publication of this notification file an objection in writing before the Collector, Land Acquisition, Simla.

*Construction of L. I. S. Bari Kangrora.

No. PW-SE-IPH-SNR-WS-1-10/78-79-7312-15
Sundernagar, the 29th November, 1978

SPECIFICATION

District: BILASPUR	Tehsil: GHUMARWIN			
Village	Khasra No.	Area.		
1	2	Big.	Bis.	
		3	4	
BARI MAJHERWAN	898	1	5	

*Construction for L. I. S. Ghumarwin.

No. PW-SE-IPH-SNR-WS-1-10/78-79-7316-19
Sundernagar, the 29th November, 1978

GHUMARWIN/436	191/1	1	0
	198/2	0	3
		1	3

*Construction of Sub-Division Office and staff quarter at Ghumarwin.

No. PW-SE-IPH-SNR-WS-1-10/78-79-7308-11
Sundernagar, the 29th November, 1978

DAKRI	376	4	14
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Tehsil: SADAR

*Construction of Pump House Lift Water Supply Scheme Swain.

No. PW-SE-IPH-SNR-WS-1-10/78-79-7320-23
Sundernagar, the 29th November, 1978

BHOAI	535	1	0
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*Pump House Lift Water Supply Scheme Swain 1st stage.

No. SE-IPH-SNR-WS-1-10/78-79-7324-27
Sundernagar, the 29th November, 1978

SWAIN	643	0	18
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Whereas it appears to the Governor, Himachal Pradesh that Land is likely to be taken by the Himachal Pradesh Government at the public expense for a public purpose*, it is hereby notified that land in the locality described below is likely to be acquired for the said* purpose.

This notification is made under the provisions of section 4 of the Land Acquisition Act, 1894 to all whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Governor, Himachal Pradesh is pleased to authorise the officers for the time being engaged in the undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

Any person interested who has any objection to the acquisition of the said land in the locality may, within thirty days of the publication of this notification file an objection in writing before the Collector, Land Acquisition Hamirpur.

***Construction of Lift Irrigation Scheme Kulahan**

No. PW-SE-IPH-SNR-WS-1-10/78-79-7296-99

Sundernagar, the 29th November, 1978

SPECIFICATION

District: HAMIRPUR Tehsil: HAMIRPUR

Village/Tikka	Khasra No.	Area K.M.
1	2	3
HALAN/TAPPA	379	1 2
	7	0 5
	Total..	1 7

***Construction of Lift Irrigation Scheme Doli**

No. PW-SE-IPH-SNR-WS-1-10 78-79-7304-07

Sundernagar, the 29th November, 1978

	K.M. Acres
SUJANPUR/BHALETER	539 1 8 0.17

***Construction of Lift Irrigation Scheme, Karor**

No. PW-SE-IPH-SNR-WS-1-10/78-79-7292-95.

Sundernagar, the 29th November, 1978

KAROR	788	1 6
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***Construction of Lift Irrigation Scheme, Jangel Ropa**

No. PW-SE-IPH-SNR-WS-1-10/78-7300-03.

Sundernagar, the 29th November, 1978

JANGEL KHAS 295 8 0

***Construction of Water Supply Scheme, Lag Walti and Bonson, District Hamirpur.**

No. PW-SE-IPH-SNR-WS-1-10/78-79-7328-31.

Sundernagar, the 29th November, 1978.

BARIN

1592/858 1 12

Sundernagar, the 29th November, 1978

No. PW-SE-IPH-SNR-WS-1-10/78-79-7345-48. Whereas it appears to the Governor, Himachal Pradesh that the land is required to be taken by the Government at public expense for a public purpose, namely for construction of Water Supply Scheme Tillu Jalari in District Hamirpur, it is hereby declared that the land described in the specification below is required for the above purpose.

This declaration is made under the provisions of section 6 of the Land Acquisition Act, 1894, to all whom it may concern and under the provisions of section 7 of the said Act the Collector, Land Acquisition, Himachal Pradesh Public Works Department, Hamirpur is hereby directed to take order for the acquisition of the said land.

A plan of the land may be inspected in the office of the Collector, Land Acquisition, Himachal Pradesh Public Works Department, Hamirpur.

SPECIFICATION

District: HAMIRPUR Tehsil: HAMIRPUR

Mauza	Tikka	Khasra No.	Area K.	M.
1	2	3	4	5
JALARI JANGLU		808/1	8	7
JALARI TILLU		318/252/1	6	13

DHARAM PAL,
Superintending Engineer,
Irrig.-cum-Public Health Circle,
H. P., P. W. D., Sundernagar

भाग 3—अधिनियम, विधेयक और विधेयकों पर प्रवर मर्पित के प्रतिवेदन, वैधानिक नियम तथा हिमाचल प्रदेश के राज्यपाल, हिमाचल प्रदेश हाई कोर्ट, फाइनेंशियल कमिशनर तथा कमिशनर ग्राफ इन्कम-टैक्स द्वारा अधिसूचित आदेश इत्यादि

HOME DEPARTMENT

NOTIFICATION

Simla-2, the 30th October, 1978

No. Home II(B) 15-10/77.—In exercise of the powers conferred by proviso to Article 309 of the Constitution of India and all other powers enabling him in this behalf, the Governor, Himachal Pradesh is pleased to make the following rules to amend the Himachal Pradesh Home Guards and Civil Defence Class IV Service (Recruitment, Promotion and Certain Conditions of Service) Rules, 1969 notified vide notification No. 5-2/69-HG, dated 23-1-1969 and amended from time to time:—

1. **Short title and commencement.**—(1) These rules may be called the Himachal Pradesh Home Guards and Civil Defence Class IV Services (Recruitment, Promotion and Certain Conditions of Service) (2nd Amendment) Rules, 1978.

(2) They shall come into force at once.

2. The existing provisions of sub-rule (1) of Rule 5 of the Himachal Pradesh Home Guards and Civil Defence Class IV Service (Recruitment, Promotion and Certain Conditions of Service) Rules, 1969, shall

be substituted as follows:—

Rule 5 (1) condition of nationality for appointment—

- (a) a citizen of India, or
- (b) a citizen of Nepal, or
- (c) a subject of Bhutan, or
- (d) a Tibetan refugee who came over to India before the 1st January, 1962 with the intention of permanently settling in India, or
- (e) a person of Indian origin who has migrated from Pakistan, Burma, Lanka, East African countries of Kenya, Uganda, the United Republic of Tanzania (formerly Tanganyika and Zanzibar) Zambia, Malawi, Zaire and Ethiopia with the intention of permanently settling in India.

A candidate in whose case a certificate of eligibility is necessary may be admitted to an examination or interview conducted by the Himachal Pradesh Public Service Commission or other recruiting authority, but the offer of appointment may be given only after the necessary eligibility certificate has been issued to him by the Government of Himachal Pradesh/ Government of India.

L. H. TOCHHAWNG,
Chief Secretary.

भाग 4—स्थानीय स्वायत्त शासन: म्युनिसिपल बोर्ड, डिस्ट्रिक्ट बोर्ड, नोटिफाइड ग्रौर टाउन एरिया तथा पंचायती राज विभाग

गुप्त

भाग 5—वैयक्तिक अधिसूचनाएं और विज्ञापन

In the Court of District Judge, Kangra Division at Dharamsala

SUCCESSION CASE No. 13 of 1978

1. Sh. Bihari Lal s/o Shri Sevan Mal, 2. Smt. Santosh Kumari daughter, 3. Smt. Satya Devi widow, 4. Sushil minor son 5. Meera, 6. Sabita minor daughters of Shri Madan Lal s/o Shri Sevan Mal (No. 4 5, 6, through their mother Peti. No. 3, caste Brahman, r/o Chahri, Teh. & Distt. Kangra.

Versus

General Public.

Petition under section 372 of Indian Succession Act for the grant of Succession Certificate.

To

The General Public.

Whereas the above named petitioner having applied the grant of succession certificate for the estate of Shri Sawan Mal s/o Shri Bishambar Dutt deceased, r/o Chahri, Tehsil and Distt. Kangra who died on 21-3-1977.

Notice is hereby issued to the general public to file objection if any, against the grant of succession certificate in favour of the petitioner on 11-1-1979 at 10 A. M. in this Court at Dharamsala.

In case no objection is received in this court on or before the above date fixed. further proceedings with regard to the grant of succession certificate in favour of the petitioner will be taken.

Given under my hand and the seal of the court this 29th day of November, 1978.

Seal.

Sd/-
District Judge,
Kangra at Dharamsala.

विज्ञापन जेर आदेश 5, नियम 20, जाबता दीवाने

ब्रह्मदास श्री धर्मलाल सुद, अतिरिक्त डिस्ट्रिक्ट जज, कांगड़ा मण्डल स्थित धर्मशाला

मुकदमा जेर दफा 30 आफ लैण्ड ऐक्वीजिशन ऐक्ट

मुकदमा नम्बर 212 आफ 1975

विश्वा नाथ बनाम शर्तू बैरवा

बनाम:—ग्राम जनता, टीका व मोजा देहरा, तहसील देहरा, जिला कांगड़ा ।

उपरोक्त मुकदमा बाला में फरीकैन हर दो ने दरखास्त जेर दफा 30 आफ लैण्ड ऐक्वीजिशन ऐक्ट बराये लेने कम्पनसेशन मुब्लिग 5,527 रुपये 90 पैसे बाबत टीका देहरा H. B. No. 93/1 मोजा देहरा, तहसील देहरा, जिला कांगड़ा जो लैण्ड ऐक्वीजिशन अफमर, ब्यास डैम प्रोजेक्ट, तलवाड़ा ने निर्धारित किया है, कि मुजारी है । इसलिये विज्ञापन जेर आदेश 5, नियम 20 जाबता दीवाने बनाम ग्राम जनता टीका व मोजा देहरा, तहसील देहरा, जिला कांगड़ा जारी करके लिखा जाता है कि अगर किसी शख्स को

इस कम्पनसेशन के बारे जो वाकन कॉमन एक स्टोर, गमशान घाट और स्वर्ग प्राथम की एक इमारत का है, कोई उजर खिलाफ हर दो फरीकैन हों, इस अदालत में दिनांक 9-1-1979 को प्रातः 10 बजे दिन स्वयं या वजूरिया प्लीडर या एडवोकेट हाजिर होकर पेश करें अन्यथा कार्रवाई मजबूर अमल में लाई जावेगी ।

आज दिनांक 16-12-1978 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ ।

धर्मलाल सुद,
अतिरिक्त डिस्ट्रिक्ट जज,
कांगड़ा स्थित
धर्मशाला ।

ब्रह्मदास श्री अमरेंद्र लाल वैद्य, ज्येष्ठ उप-न्यायाधीश, व्यवहार जिला जज, जिला विलासपुर, (हि 0 प्र 0)

दरखास्त नम्बर 3/2 of 1977

1. श्रीमती माविनी देवी बेवा शिव राम पुत्र राम सिंह, बजानही व निज एकोका व सम्पत्तिसत्ता व बालरा 2. मतीश उमर 11 वर्ष (नाबालग), 3. महेन्द्र सिंह उमर 7 वर्ष (नाबालग) पिसरान शिव राम, साकिन बेहना जट्टा, प 0 गेहड़वाँ, तहसील घुमारवीं, जिला विलासपुर ।

.. सायलान ।

बनाम

ग्राम जनता

दरखास्त बराए सर्टिफिकेट जानशीनी

बनाम

ग्राम जनता

उपरोक्त उनवानवाला में प्रायोगण ने इस न्यायालय में एक दरखास्त बराए हसूल सर्टिफिकेट जानशीनी शिव राम मृतक पेश की है । अतः सर्वसधारण को बजरिया इस्तहार सूचित किया जाता है कि यदि किसी को उपरोक्त दरखास्त का विरोध करना हो तो वह असालतन, बकालतन या किसी मुख्तियार द्वारा इन न्यायालय मकाम विलासपुर में मिति 8-1-1979 को प्रातः 10 बजे उपस्थित हो कर ऐसा कर सकता है अन्यथा एक-पक्षीय कार्यवाही अमल में लाई जावेगी ।

आज मिति 21-12-1978 को बसवत मेरे हस्ताक्षर तथा मोहर अदालत से जारी किया गया ।

मोहर ।
अमरेंद्र लाल वैद्य,
ज्येष्ठ उप-न्यायाधीश,
(व्यवहार जिला जज),
विलासपुर, (हि 0 प्र 0) ।

In the court of Shri R. K. Mahajan, Senior Sub-Judge, Solan District Solan.

(Exercising the Powers under Guardian and Wards Act.)

CASE No. 11/2 of 1978.

In the matter of Shri Duni Chand son of Shri Kalu Ram and Miss Giata Devi daughter of Late Shri Kalu Ram minors.

Smt. Durgi Devi wife of Shri Durga Ram, resident of Village Patta, Teh. Arki, Distt. Solan H.P. ..Petitioner.

Versus

General Public .. Respondants.

Petition under section 8, Hindu Minority and Guardianship Act.

To

The General Public.

Whereas Smt. Durgi Devi has filed a petition under section 8, Guardian and Wards Act in this court for appointment of Guardian of persons of the minors and of the property of minors till they attain majority. Notice is hereby given to the general public that if any well wisher and kinsmen have any objection to the appointment of Guardian of the person of minor he should file the same in this court on or before 12-1-79 at Solan, failing which no objection shall be entertained.

Given under my hand and seal of this court this 15th December, 1978.

Seal. R. K. MAHAJAN,
Senior Sub-Judge, Solan.

In the Court of Shri R. K. Mahajan, Senior Sub-Judge Solan, District Solan

(Exercising the powers of District Judge, under Act No. 39 of 1925)

CASE No. 4/2/1978

Shankutla Devi widow of Sant Lal Gupta, resident of Dagshai, Tehsil Solan, District Solan, Himachal Pradesh ..Petitioner.

Versus

General Public .. Respondents.

Application for succession certificate u/s Succession Act.

To

The General Public

Whereas in the above noted case the petitioner has moved an application under section 372 of the Indian Succession Act for the grant of Succession Certificate in this court in respect of the debts and securities of Late Sh. Sant Lal Gupta who died at Chandigarh on 30-4-75.

The notice is hereby given to the general public, relation and the kinsman of the deceased, that if anybody has got any objection to the grant of the succession certificate in favour of the petitioner, may file the same in this court on or before 15-2-79 afterwards no objection will be entertained.

Given under my hand and seal of the court this 14th December, 1978.

Seal. R. K. MAHAJAN,
Senior Sub Judge, Solan.

In the Court of Sh. R. K. Mahajan, Senior Sub-Judge Solan, H.P.

Execution No. 6/10 of 78

Babu Lal son of Manohar Lal, resident of Solan, Himachal Pradesh .. Applicant.

Versus

Sh. Tribhuwan Dass son of Sh. Chuni Lal Jain, resident of Deonghat. ..Respondent/J.D.

Execution Application

To

Sh. Tribhuwan Dass son of Shri Chuni Lal Jain, resident of Deonghat, Tehsil and District Solan, Himachal Pradesh.

Whereas in the above noted case, it has been proved to the satisfaction of the court that the above named defendant/J.D. is evading the service of the summons and cannot be served in normal course of the service. Hence this proclamation is hereby issued against him to appear in this court on the date fixed for hearing on 14-2-1979 at 10 A. M. personally or through an authorised agent or pleader to defend the case failing which *ex parte* proceedings will be taken against him.

Given under my hand and seal of the court this 16th day of December, 1978.

Seal. R. K. MAHAJAN,
Senior Sub-Judge, Solan.

In the Court of Shri Rameshwar Sharma, Sub-Judge 1st Class Nurpur, District Kangra, Himachal Pradesh

CIVIL SUIT No. 69/1977

Smt. Bhikari Devi ..Plaintiff.

Versus

Smt. Muktu etc. ..Defendants.

Versus :

1. Joundu son of Dalipa.
2. Smt. Chuhi d/o Dalipa, r/o Village Jakhara, Dakhli Fatehpur, Tehsil Nurpur, District Kangra (H. P.)

Whereas in the above noted case, it has been proved to the entire satisfaction of this Court that the above named defendants cannot be served in the ordinary way of service. Hence this proclamation under order 5, rule 20, C.P.C. is issued to the above named defendants that they should appear in this court on 5-1-1979 at 10 A.M. personally or through pleader, failing which *ex parte* proceedings shall be taken against them.

Given under my hand and the seal of this court on this 18th day of December, 1978.

Seal. RAMESHWAR SHARMA,
Sub-Judge, 1st Class.

In the Court of Shri Rameshwar Sharma, Sub-Judge 1st Class, Nurpur, District Kangra, (Himachal Pradesh)

Smt. Gurbachan Devi ..Petitioner.

Versus

Dhano Devi etc. .. Respondents.

Versus

General Public

Whereas in the above noted case, the petitioner has filed an application for the grant of succession certificate in the estate of late Shri Ranjodh Singh s/o Harnam Singh, r/o Jassoar, Tehsil Nurpur, District Kangra.

Notice to the general public is hereby issued that any body, kinsman or near relative of the deceased has got any objection in the grant of succession certificate to the petitioner, may file on or before 2-2-1979 afterwards no objection will be entertained.

Given under my hand and the seal of this court on this 18th day of December, 1978.

Seal. RAMESHWAR SHARMA,
Sub-Judge 1st Class.

In the Court of Shri Rameshwar Sharma, Sub-Judge
1st Class, Nurgpur, District Kangra, Himachal Pradesh

Succ. Certificate App. No 2/1978

Fakir Singh ..Petitioner.

Versus

Sita Devi etc. ..Respondants.

Versus

General Public

Whereas in the above noted case, the petitioner has filed an application for the grant of succession certificate in the estate of late Shri Punjab Singh, r/o Tardiala Dakhli Rehan, Tehsil Nurgpur, Distt. Kangra.

Notice to the general public is hereby issued that anybody, or near relative of the deceased has got any objection in the grant of succession certificate to the petitioner may file on or before 27-1-1979, afterwards no objection will be entertained.

Given under my hand and the seal of this court on this 18th day of December, 1978.

Seal. RAMESHWAR SHARMA,
Sub-Judge 1st Class.

इस्तहार जेर आर्डर 5, रूल 20, सीओ पीओ सीओ

ब अदालत श्री रूप लाल रघू, सब-जज प्रथम श्रेणी, नालागढ़, जिला सोलन, हिमाचल प्रदेश

केस नं० 124/1 आफ 1978

श्रीमती विजया वन्ती पत्नी प्यारे लाल खोसला पुत्र शिव सरन दास खोसला, सक्ना बाई नं० 9 नालागढ़ शहर, तहसील नालागढ़, जिला सोलन (हि० प्र०)।

बनाम

1. प्यारे लाल खोसला पुत्र शिव सरन दास खोसला, सक्ना बाई नं० 9 नालागढ़ शहर, तहसील नालागढ़, जिला सोलन, हि० प्र०,
2. अम्मन जी, पता मालूम नहीं।

To

Amman Jee, whereabouts not known.

हरगढ़ मुफदमा उनवान वाला में अदालत राजा को यह यकीन हो गया है कि प्रतिवादी नं० 2 जिस का कोई पता मालूम नहीं है। जिस की तामील के लिए अदालत हजा से बड़ी बार समन जारी किए गये। परन्तु प्रतिवादी की तामील आसान तरीके से नहीं हो सकी। अतः प्रतिवादी नं० 2 को बजिरदा इस्तहार अबकारी सूचित किया जाता है कि बड़ तिथि 10-1-79 बक्कत 10 बजे सुबह हाजर अदालत हजा में आकर असालतन या वकालतन बैरकी मुकदमा करें। अन्यथा प्रतिवादी नं० 2 के खिलाफ कार्यवाही यकतरफा अमल में लाई जावेगी।

आज दिनांक 19-12-78 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

रूप लाल रघू,
सब-जज प्रथम श्रेणी,
नालागढ़, जिला सोलन, हि० प्र०।

In the Court of Mrs. Aruna Kapoor, Sub-Judge II, Simla
PROCLAMATION UNDER ORDER 5, RULE 20, C.P.C.

CASE No. 230/1 OF 1977

1. Miss. Manorama Khanna } ds/o Sh. Hans Raj Khanna
2. Miss. Kamlesh Khanna } House No. 9, Alley
3. Mrs. Sushma Khanna } No. 12, Kashmiri Mohalla, Simla.
4. Sh. Vinod Kumar s/o Sh. Hans Raj Khanna (unsound mind) at present Mental Hospital Amritsar, through Miss. Kamlesh Khanna next friend of Vinod Kumar. ..Plaintiffs.

Vs.

General public ..Defendants.

SUIT FOR DECLARATION

To

The General public.

Whereas the above named plaintiffs have filed a suit for declaration in this Court to the effect that Shri Hans Raj Khanna s/o Shri Gian Chand Khanna, r/o House No. 9, Alley No. 12 Kashmiri Mohalla, Simla has died and has been succeeded by plaintiffs in equal shares, who are entitled to recover all the dues payable by Accountant General Punjab, such as General Provident Fund, Gratuity and other pensionary benefits.

Notice is hereby given to the General Public, relations and kins men of the deceased through this publication that if anybody has got any objection to the grant of relief of declaration, may file in this Court on or before 21-2-1979, afterwards no objections will be entertained.

Given under my hand and the seal of the court this 15th day of December, 1978.

Seal. MRS. ARUNA KAPOOR,
Sub-Judge (2), Simla.

In the Court of Mrs. Aruna Kapoor, Sub-Judge (II), Simla,
Himachal Pradesh

In CASE No. 195/1 OF 1977

H. P. Financial Corporation, Kishore Bhawan, The Mall, Simla. .. Plaintiff.

Vs.

Shri Gopal Krishan etc. .. Defendants.

Suit for recovery of Rs. 25,229.20 Paise.

To

Gopal Krishan s/o Piare Lal, H. No. 4, Narain Bhawan, Cart Road, Simla.

Whereas in the above noted case, it has been proved to the satisfaction of this Court that the above noted defendants/respondents are evading the service of the summons and cannot be served in the normal course of service. Hence this proclamation is hereby issued against them to appear in this Court on the date fixed for hearing on 5-3-79 at 10 A.M. personally or through an authorised agent or pleader to defend the case, failing which ex parte proceedings will be taken against them.

Given under my hand and the seal of the court on this 16th day of December, 1978.

Seal. MRS. ARUNA KAPOOR,
Sub-Judge/Rent Controller (2), Simla.

PROCLAMATION UNDER ORDER 5, RULE 20 C.P.C.

गाहोलिया, ते० कांगड़ा ।

.. मसूलइलान ।

In the Court of Sh. J. N. Barowalia, Sub-Judge I
Una
CASE No. 234 OF 1978

Raghnath Chand Vs. Shanti Swarup.
Vs.

Shanti Swarup, (2) Parkash Chand, (3) Kishan Dass ss/o
Darnam Dass, caste Brahman, r/o Village Khad, Distt.
Una.

Whereas in the above noted case, it has proved to the satisfaction of this Court that the above noted defendants are evading the services of the summons and cannot be served in the normal course of service, Hence this proclamation is hereby issued against them to appear in this Court on the date fixed for hearing on 9-1-1979 at 10 A. M. personally or through an authorised agent or pleader to defend the case, failing which *ex parte* proceedings will be taken against them.

Given under my hand and the seal of the court this 6th day of December, 1978.

Seal.

J. N. BAROWALIA,
Sub-Judge, 1st Class, Una, H.P.

बम्रदालत श्री राम सिंह, तहसीलदार, भू-व्यवस्था वृत्त देहरा
बख्तियार सहायक समाहर्ता, प्रथम श्रेणी

मिसल मुतफर्क 65/78

होसनाक पुत्र छांमा पुत्र बेली, वासी दपोलडू, मौजावन खण्डी,
तहसील देहरा .. वादी ।

बनाम

श्रीमती जागो आदि .. प्रतिवादीभग्न ।

दरखास्त मुकद्दमा बनाने मालिक मुजारा गैर मौलसी भूमि
खाता नम्बर 21/41 किता 2 रकबा तादादी 11-5 मरले वाक्या
महान दपोलडू, मौजा वन खण्डी, तहसील देहरा ।

मुकद्दमा उनवान बाला में श्रीमती जागो विधवा तिलक राज-विजय
कुमार पुत्र व श्रीमती शकुन्तला देवी, श्रीमती वलयातू, श्रीमती गुड्डी रानी
पुत्री शोभा राम पुत्र रामा, वासी हरीपुर, तहसील देहरा को कई बार
समन भेजे गये । परन्तु समन पर साधारण रूप से तामील नहीं हो
रही हैं । और अदालत हजा को भी पूर्ण विश्वास हो गया है कि
उक्त फरीकेन मानी की तामील साधारण रूप से होना असम्भव है ।
अतः बजरीया नोटिस हजा सूचित किया जाता है कि उक्त प्रतिवादी
मिति 8-1-79 को मकाम देहरा वदक्त 10.30 बजे सुबह अदालतन
व बकालतन पैरवी मुकद्दमा करें । अन्यथा कार्यवाही एक तरफा
हस्त जाज्जा अमल में लाई जावेगी ।

आज दिनांक को मेरे हस्ताक्षर व मोहर अदालत से जारी हुए ।
मोहर । राम सिंह,

सहायक क्लैक्टर, प्रथम श्रेणी ।

बम्रदालत जनरल आर० के० चौहान, सहायक समाहर्ता प्रथम श्रेणी
कांगड़ा

नं० मु० 36 Of 1976

(1) जैगी राम, (2) लौहू राम, (3) वंसी लाल (4) अमर
सिंह पिसरान, (5) श्रीमती मयरो पुत्री गुलाबू, साकन नन्देहड,
तहसील कांगड़ा .. सायलान ।

बनाम

(1) श्रीमती बुधा बेवा, (2) श्री नानकू पुत्र निहालू, (3)
खरदी राम, (4) जुलफी राम, (5) शोरा राम पिसरान गिट्ट,
(6) चिन्तो देवी, (7) गद्दी देवी, (8) सावित्री देवी पुत्रीयां गिट्ट,
(9) चरण दाम पुत्र धूगर, (10) माया देवी पुत्री पूंगरनाबालि
द्वारा पूंगर बाल, (11) निरू राम पुत्र छन्नू राम, (12) वुगड़
मुतवफी द्वारा धनू राम पिसर खडू, साकन महान टल्ला, मौजा

दरखास्त तहसील भूमि खाता नं० 33 खतोनी नं० 111 खसरा नं०
792, 783, 853 किता 3 खतोनी नं० 112 खसरा नं० 802,
801, 812, 813, 815, 816, 819, 826, 827, 828, 836,
838, 837/1, 843, 816, 819, 855, 856, 857, 858,
860, 861, 863, 866, 868, 869, 871, 873, 874
किता 3 व खतोनी नं० 113 व खसरा नं० 810, 811, 814,
817, 818, 839, 840, 852, 859, 862, 864, 870, 872, 875,
876 किता 15 व खतोनी नं० 114 खसरा नं० 798, 822, 825,
829, 831, 832, 834, 835/1, 836, 842, 845, 847,
किता 12 व खतोनी नं० 115 खसरा नं० 800 803, 807,
808, 809, 820, 821, 822, 823, 824, 830, 833,
835, 837, 841, 844, 846, 850 किता 18 नं० 116
खसरा नं० 854 व खतोनी नं० 117 खसरा नं० किता 80 रकबा
वकदर 4-22-28 वाक्या महान टल्ला, मौजा गाहलिया,
तहसील कांगड़ा ।

बमुकदमा उहरोक्त में मसूलइलान नं० 1, 2, 6, 7, 8, 9, 10 व 12
के नाम कई बार समन जारी किए गए परन्तु इन की इतला
न हो रही है और अदालत हजा को पूर्ण विश्वास हो गया है
कि उन की इतला आसान तरीका से नहीं हो सकती है । अतः
उन्हें इस इस्तहार द्वारा सूचित किया जाता है कि वे वर्गज पैरवी
दरखास्त मिति 5-1-79 को अदालतन या बकालतन हाजिर
आवे अन्यथा उनके विरुद्ध कार्रवाई एक-तरफा अमल में लाई जावेगी ।

आज मिति 21-12-78 को मेरे हस्ताक्षर व मोहर अदालत के
जारी हुआ ।

मोहर ।

आर० के० चौहान,
सहायक समाहर्ता, प्रथम श्रेणी, कांगड़ा ।

इस्तहार हाजरी अदालत

बम्रदालत हरभजन सिंह, ए० सी० दर्जा दोयम, जिला अर्की
(हस्त आर्डर 5, कायदा 16, ज़ाब्ता दीवानी)

मसम्मी रेसू, बेवा लटुरिया, सकना बुईला अर्की ... मुहई ।

बनाम

मसम्मी गोकल बल्द रजनु, सकना भलेड़ इलाका पर० सरयान्ज
.. मुहालय ।

तसदीक इन्तकाल अगजी मौजा भलेड़, बुईला सरयान्ज ।

मसम्मी गोकल पुत्र रजनु को उपरोक्त मुकदमा में हाजिर अदालत
होने के लिये इतला भेजी जा चुकी है मगर रिपोर्ट तामील यही
अती रही है कि वह काफी वरों से लापता है । इसलिये इस्तहार
अखबारी जारी किया जाकर गोकल को अदालतन या बकालतन
दिनांक 3-1-1979 को कार्यालय में हाजिर होने के लिये सूचित
किया जाता है । यदि उस तारीख पर भी हाजिर होकर पैरवी
मुकदमा न किया गया तो इन्तकाल बाद कार्रवाई एक-तरफा अमल
लाने तसदीक किया जावेगा ।

बसन्त मेरे इस्तकाल व मोहर अदालत के आज बतारीख 23
माह 10 सन् 1978 को जारी किया गया ।

हरभजन सिंह,
ऐसिस्टेंट क्लैक्टर, सैकिड ग्रेड,
अर्की, जिला सोलन, हि० प्र० ।

बमदाला: मुन्दर सिंह, सहायक समाहर्ता, द्वितीय वन (नायब तहसील-
दार) नालागढ़, जिला सोलन (हि० प्र०)

बाबू राम पुत्र गंगू, निवासी ग्राम हरायेपुर, परगना धर्मपुर, तहसील
नालागढ़, जिला सोलन (हि० प्र०)

बनाम

रामकरण पुत्र हमीरा पुत्र मोलक राम, निवासी ग्राम खेडां वाली,
तहसील कालका, जिला अम्बाला (हरियाणा) मसूलईना।

विषय:—दख्खान बराये जारी कले इस्तहार अजबारी बाबत तत्वी
रामकरण पुत्र हमीरा पुत्र मोलक राम, निवासी खेडां वाली,
तहसील कालका, जिला अम्बाला (हरियाणा) व सिलसिल
दख्खती इम्दाज खसरा गिरदावरी निवासी मजाजी तादादी
1 बिवा 4 बिस्वा अदाजी बाका रकबा ग्राम हरायेपुर,
परगना धर्मपुर, तहसील नालागढ़ मुन्दरजा खेवट नं० 39,

मिन खतौनी नं० 52 मिन खसरा नं० 142/1-4 किता 1
जमाबन्दी 1971-72 देह मजदूर अज फल खरीफ 1973
ता हाल।

हुराह बाबू राम साजल ने दख्खान हवा हमारे खूबक पेश की
है कि रामकरण पुत्र हमीरा, साकन खेडां वाली, तहसील कालका,
जिला अम्बाला, बराए पैरवी मुकदमा दख्खती गिरदावरी हाजिर
नहीं आ रहा है। इस सम्बन्ध में अदालत को भीयकीन हो चुका
है कि मसूलईना को तामील साधारण तरीका से नहीं हो सकती।
अतः श्री रामकरण पुत्र हमीरा पुत्र मोलक राम, निवासी ग्राम खेडां
वाली, तहसील कालका, जिला अम्बाला बजरिया इस्तहार अजबारी
सूचित किया जाता है कि वह मितो 9-1-1979 को सुबह 10
बजे अदालत या बकालतन हाजिर अदालत आकर पैरवी मुकदमा
दख्खती गिरदावरी करे अन्यथा कार्यवाही एकतरफा अमल में लाई
जाएगी।

आज दिनांक 15-12-78 को हमारे हस्ताक्षर व मोहर अदालत
से जारी हुआ।

मोहर।

मुन्दर सिंह,
सहायक समाहर्ता, द्वितीय श्रेणी,
नालागढ़, जिला सोलन।

व अदालत श्री के० एल० गौतम, व अखत्यारात ऐमिस्टेट कुलैक्टर
पालमपुर, तहसील पालमपुर, जिला कांगड़ा, हि० प्र०।

मु० नं० 22/1978/तिथि पेशी 9-1-1979

इशतहार जेर आर्डर 58(3) Read with Section (43-1)
H. P. Tenancy and Land Reforms Act, 1974
बाबत खाता नं० 140, खतौनी नं० 264, खसरा नं० 146/1 मिन
रकबा 6 कनाल जमाबन्दी 1968-69 टीका टांडा, मोजा बनूरी,
तहसील पालमपुर।

श्री गंगू पुत्र बीरू, साकन टांडा पारली, मोजा बनूरी, तहसील
पालमपुर।

बनाम

(1) श्री महलू, (2) हरी सिंह पुत्रान लालमन, (3) किशन
चन्द पुत्र बुधी, (4) सिधू पुत्र बीरू, (5) रतो, (6) सुख राम

(7) मावू पुत्रान व (8) दुर्गी, (9) भोडी, (10) बिश्वा पुत्रीयान
व जोजा बिश्वा शंकर, साकन टांडा मोजा, बनूरी, तहसील पालमपुर।

उपरोक्त मुकदमा में सायल ने दावा बेदखली अराजी दायर
किया है जो कि हमारी अदालत में जेर समायन है। मसूलअयम
की तामील ग्राम तरीका से न हों रही है इसलिये मसूलअयम
की तामील बजरिया उम्नहार गजट सूचित किया जाता है कि वह
9-1-79 को प्रातः 10 बजे अदालत या बकालतन हाजर अदालत
हवा होकर पैरवी मुकदमा करें वरना उन के खिलाफ कार्यवाही
जावना अमल में लाई जावेगी।

आज दिनांक 12-12-1978 को मेरे हस्ताक्षर व मोहर अदालत में
जारी हुआ।

मोहर।

के० एल० गौतम,
ऐमिस्टेट कुलैक्टर, पालमपुर।

व अदालत के० एल० गौतम, व अखत्यारात ऐमिस्टेट कुलैक्टर पालमपुर,
तहसील पालमपुर, जिला कांगड़ा, हि० प्र०

मु० नं० 10/1977/विशी 9-1-79

दावा u/s 58 (3) read with section 34 (1) H. P
Tenancy and Land Reforms Act, 1974 for
ejectment.

श्री गंगू पुत्र बीरू, साकन टांडा पारली, मोजा बनूरी, तहसील
पालमपुर।

बनाम

(1) श्री ज्योती पुत्र खिन्दु, (2) मयलू पुत्र विलू, (3) सिक्
पुत्र बीरू, (4) रतो, (5) मुख राम, (6) साधु पुत्रान व
(7) चौगरी, (8) भोडी, (9) श्रीमती बिश्वा पुत्रीयान, (10) जोजा
बिश्वा शंकर, साकन टांडा, मोजा बनूरी, तहसील पालमपुर।

उपरोक्त मुकदमा में सायल ने बेदखली का दावा दायर किया
है जो कि हमारी अदालत में जेर समायन है मसूलअयम की तामील
ग्राम तरीका से नहीं हो रही है इसलिये बजरिया इस्तहार मसूल-
अयम को सूचित किया जाता है कि वह अदालतन या बकालतन
तिथि 9-1-79 को 10 बजे प्रातः हाजर अदालत हवा होकर
पैरवी मुकदमा करें वरना उनके खिलाफ कार्यवाही जावना अमल
में लाई जावेगी।

आज यह आदेश मेरे हस्ताक्षर व मोहर अदालत से जारी
हुआ।

मोहर।

के० एल० गौतम,
ऐमिस्टेट कुलैक्टर, पालमपुर।

HIMACHAL PRADESH UNIVERSITY

NOTIFICATION

Simla-5, the 20th December, 1978.

Miss. Sunita Nayyar d/o Shri Surrender Nayyar,
Registration No. 77-BP-162 has been allowed to
change her name from SUNITA NAYYAR to
SUMISHA NAYYAR. In future her name in the Uni-
versity record will be shown as: SUMISHA NAYYAR
Nee SUNITA NAYYAR.

S. R. MEHTA,
Assistant Registrar(Conduct),
H.P. University, Simla-5.

भाग 6—भारतीय राजपत्र इत्यादि में से पुनः प्रकाशन

LAW DEPARTMENT
NOTIFICATION

Simla-171002, the 12th October, 1978

No. LLR-E(9)25/78.—The following Acts recently passed by Parliament which have already been published in the Gazette of India, Extraordinary, Part-II, Section 1, are hereby republished in the Himachal Pradesh Government Rajpatra for the information of general public:—

1. The Customs Tariff (Amendment) Act, 1978 (26 of 1978).
2. The Maintenance of Internal Security (Repeal) Act, 1978 (No. 27 of 1978).
3. The Insolvency Laws (Amendment) Act, 1978 (No. 28 of 1978).
4. The Taxation Laws (Amendment) Act, 1978 (29 of 1978).
5. The Coast Guard Act, 1978 (30 of 1978).
6. The Passports (Amendment) Act, 1978 (No. 31 of 1978) and the Indian Explosives (Amendment) Act, 1978 (No. 32 of 1978).
7. The Metro Railways (Construction of Works) Act, 1978 (No. 33 of 1978).
8. The Delhi Police Act, 1978 (34 of 1978).
9. The Tobacco Board (Amendment) Act, 1978 (36 of 1978).
10. The Press Council Act, 1978 (37 of 1978).

K. C. GUPTA,
Under Secretary.

Assented to on 1-8-1978.

THE CUSTOMS TARIFF (AMENDMENT) ACT,
1978

(ACT ON 26 OF 1978)

AN
ACT

urther to amend the Customs Tariff Act, 1975.

Be it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Customs Tariff (Amendment) Act, 1978.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 4.*—In section 4 of the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the principal Act),—

- (a) in sub-section (1), for the words “the produce or manufacture of the United Kingdom or of such other preferential area”, the words “the produce or manufacture of such preferential area” shall be substituted;
- (b) in sub-section (2), for the words “the produce or manufacture of the United Kingdom or of any other preferential area”, the words “the produce or manufacture of any preferential area” shall be substituted;
- (c) in sub-section (3), for the words “United Kingdom” means the United Kingdom of Great Britain and Northern Ireland and “other preferential area”, the words “preferential area” shall be substituted.

3. *Amendment of section 7.*—In section 7 of the principal Act, in sub-section (1), for the words, brackets and figure “column (6)”, the word, brackets and figure “column (5)” shall be substituted.

4. *Amendment of the first Schedule.*—The First Schedule to the principal Act shall be amended in the manner specified in the Schedule.

THE SCHEDULE

(See section 4)

PART I

In the First Schedule to the principal Act,—

(A) in the Rules for the interpretation,—

(i) in rule 3, for clause (c), the following clause shall be substituted, namely:—

“(c) When goods cannot be classified by reference to (a) or (b), they shall be classified under the Heading which occurs latest among those which equally merit consideration.”;

(ii) under the heading “General Explanatory Note”, the words, brackets and figure “or column (5)” shall be omitted;

(B) in each Chapter,—

(i) column (4) and the sub-heading “U.K.” occurring above that column shall be omitted;

(ii) columns (5) and (6) shall be renumbered respectively as columns (4) and (5);

(iii) for the sub-heading “Other Preferential Areas” occurring above column (4), as so renumbered, the sub-heading “Preferential Areas” shall be substituted;

(C) (1) in Chapter 4, for Note 1, the following Note shall be substituted, namely:—

“(1) The expression “milk” means full cream or skimmed milk, butter milk, whey, curdled milk, kephir, yoghurt and other fermented or acidified milk.”;

(2) in Heading No. 09.04/10, in column (2), for the words and brackets “Spices (including mixed spices)”, the words and brackets “Spices (including mixed spices, thyme, saffron and bay leaves)” shall be substituted;

(3) in Chapter 10, for the Note, the following Note shall be substituted, namely:—

“This Chapter only covers those grains which have been neither hulled nor otherwise worked. However, rice, husked, milled, polished, glazed, parboiled, converted or broken remains classified in this Chapter.”;

(4) in Heading No. 11.02, in column (2), for the words “except husked, glazed, polished or broken rice”, the words and figures “except rice falling within Chapter 10” shall be substituted;

(5) in Chapter 12,—

(i) in Note 2, after the words “seeds of vetches”, the brackets and words “(other than those of the species *Vicia faba*)” shall be inserted;

(ii) in Note 3, in item (d), for the word “weed-killers”, the word “herbicides” shall be substituted;

(6) in Heading No. 12.04/06, in column (2), for the words “chicory roots, fresh or dried, whole or cut, unroasted; hops”, the words “hop cones and lupulin” shall be substituted;

(7) in Heading No. 12.07, in column (2),—

(i) in the opening paragraph, the word “betelnuts” shall be omitted;

(ii) sub-heading No. (3) and the entries relating thereto shall be omitted;

(8) in Heading No. 12.08, in column (2), for the words “Locust beans”, the words “Chicory roots, fresh or dried, whole or cut, unroasted; locust beans” shall be substituted;

(9) in Chapter 13, for the title, the title “Lacs, gums, resins and other vegetable saps and extracts” shall be substituted;

(10) Heading No. 13.01 and the entries relating thereto shall be omitted;

(11) for Heading No. “13.02” in column (1), the Heading No. “13.01/02” shall be substituted;

(12) in Chapter 14, in the title, the words “and carving” shall be omitted;

(13) in Chapter 15,—

(i) in Note 1, for item (b), the following item shall be substituted, namely:—

“(b) cocoa butter (fat or oil) (Chapter 18);”;

- (ii) in Note 2, for the word "drugs", the word "degras" shall be substituted;
- (14) in Heading No. 15.08/13, in column (2),—
- for the words "animal or vegetable oils", the words "animal or vegetable oils and fats" shall be substituted;
 - the word "degras," shall be omitted;
 - for the words "animal fats", the words "edible fats" shall be substituted;
- (15) in Heading No. 15.14/17, in column (2), after the words "not coloured", the word "degras," shall be inserted;
- (16) in Heading No. 16.01/05, in column (2), for the words "Prepared or preserved meat", the words "Sausages and the like, of meat, meat offal or animal blood; other prepared or preserved meat" shall be substituted;
- (17) in Heading No. 17.02, for the entry in column (2), the entry "Other sugars in solid form including glucose and lactose; sugar syrups, not containing added flavouring or colouring matter; artificial honey, whether or not mixed with natural honey; caramel" shall be substituted;
- (18) in Heading No. 17.04/05, in column (2), the words "flavoured or coloured sugars, syrups and molasses, but not including fruit juices containing added sugar in any proportion" shall be omitted;
- (19) in Heading No. 18.01/06, in column (2), for the words "cocoa butter", the words and brackets "cocoa butter (fat or oil)" shall be substituted;
- (20) in Heading No. 19.01/08, in column (2), for the words "ordinary and fine bakers' wares", the words "communion wafers, cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products: ordinary and fine bakers' wares" shall be substituted;
- (21) in Chapter 21, in Note 1,—
- in item (c), the word "or" occurring at the end shall be omitted;
 - in item (d), the word "or" shall be inserted at the end;
 - after item (d), as so amended, the following item shall be inserted, namely:—
"(e) Prepared enzymes (Chapter 35).";
- (22) in Chapter 25,—
- in Note 2, for item (g), the following item shall be substituted, namely:—
"(g) cultured crystals (other than optical elements) weighing not less than two and a half grams each, of sodium chloride or of magnesium oxide, of Chapter 38; optical elements of sodium chloride or of magnesium oxide (Heading No. 90.01); or";
 - in Note 3,—
 - for item (e), the following item shall be substituted, namely:—
"(e) natural magnesium carbonate (magnesite); fused magnesia; dead-burned (sintered) magnesia, whether or not containing small quantities of other oxides added before sintering; other magnesium oxide, whether or not chemically pure";
 - in item (k), after the words "after moulding", the words "natural micaeous iron oxides; jet" shall be inserted;
- (23) in Chapter 28,—
- in Note 1, in the opening paragraph, for the words "Except where their context or these Notes otherwise require", the words "Except where the context or these Notes otherwise requires or require" shall be substituted;
 - in Note 2, in item (a),—
 - in sub-item (xii), the word "and" occurring at the end shall be omitted;
 - after sub-item (xiii), the following sub-items shall be inserted, namely:—
"(xiv) phosphides, carbides, hydrides, nitrides, azides, silicides and borides, whether or not chemically defined;
 - (xv) phosphorus pentoxide and phosphoric acids;
 - (xvi) red lead and orange lead;
 - (xvii) polysulphides;
 - (xviii) commercial ammonium carbonate containing ammonium carbamate; and
 - (xix) commercial sodium and potassium silicates";
 - in Note 3,—
 - for item (a), the following item shall be substituted, namely:—
"(a) sodium chloride and magnesium oxide, whether or not chemically pure, and other products falling within Section V";
 - in item (e), the words "of magnesium oxide or" shall be omitted;
 - in item (f), after the words "and precious metals", the words "and precious metal alloys" shall be inserted;
 - in item (g), after the words "chemically pure", the words "and metal alloys" shall be inserted;
 - in item (h), the words "of magnesium oxide or" shall be omitted;
- (24) in Heading No. 28.01/58, in sub-heading No. (13), in column (2), after the words "magnesium compounds", the brackets and words "(other than magnesium oxide, whether or not chemically pure)" shall be inserted;
- (25) in Chapter 29,—
- in Note 1,—
 - in item (c), sub-item (ii) shall be omitted and sub-items (iii) to (vii) shall be re-numbered respectively as sub-items (ii) to (vi);
 - for item (h), the following item shall be substituted, namely:—
"(h) the following products, diluted to standard strengths, for the production of azo dyes: diazonium salts, couplers used for these salts and diazotisable amines and their salts";
 - in Note 3,—
 - after item (f), the following item shall be inserted, namely:—
"(g) enzymes (Chapter 35)";
 - existing item (g) shall be relettered as item (h);
 - existing item (h) shall be relettered as item (i);
 - existing item (i) shall be relettered as item (k);
- (26) in heading No. 29.01/45, in column (2), in the opening paragraph, the word "enzymes", shall be omitted;
- (27) in Chapter 32, for Note 2, the following Note shall be substituted, namely:—
"2. Heading No. 32.04/12 is to be taken to include mixtures of stabilised diazonium salts and couplers for the production of azo dyes.";
- (28) in Heading No. 32.04/12, in column (2), for the words "prepared pigments", the words "prepared pigments and prepared opacifiers" shall be substituted;
- (29) in Chapter 35,—
- for the title, the following title shall be substituted, namely:—
"Albuminoidal substances; glues; enzymes";
 - for Note 1, the following Note shall be substituted, namely:—
"1. This Chapter does not cover :
(a) yeasts (Chapter 21);

- (b) medicaments (Heading No. 30.03);
 (c) enzymatic preparations for pre-tanning (Heading No. 32.01/03);
 (d) enzymatic soaking or washing preparations and other products of Chapter 34; or
 (e) gelatin products of the printing industry (Chapter 49).";
- (iii) after Note 2, the following Note shall be inserted, namely:—
- "3. This Chapter also covers products suitable for use as glues put up for sale by retail as glues in packages not exceeding a net weight of 1 kilogram.";
- (30) for Heading No. "35.01/06" in column (1), the Heading No. "35.01/07" shall be substituted, and in Heading No. 35.01/07, as so amended, in column (2), for the words "glues not elsewhere specified or included", the words "enzymes; prepared enzymes and glues not elsewhere specified or included" shall be substituted;
- (31) In Chapter 36, in Note 2, for the words "Other combustible products" applies only to the following articles, the words "The expression 'articles of combustible materials' in this Chapter is to be taken to apply only to" shall be substituted;
- (32) in Heading No. 36.01/08, in column (2),—
 (i) for the words "Explosives including detonators and blasting fuses", the words "Explosives including percussion and detonating caps; igniters; detonators; detonating and safety fuses" shall be substituted;
 (ii) for the words "other combustible products", the words "articles of combustible materials" shall be substituted;
- (33) in Chapter 38, in Note 1, in item (a), in sub-item (2),—
 (i) for the word "weed-killers", the word "herbicides" shall be substituted;
 (ii) after the word "rat-poisons", the words "plant-growth regulators" shall be inserted;
- (34) in Chapter 39, in Note 1, in item (g), for the words "riding-crops, fans or parts thereof", the words "riding-crops or parts thereof" shall be substituted;
- (35) in Heading No. 40.05/16, in column (2), after the words "vulcanised or hardened, not elsewhere specified", the words "vulcanised rubber thread and cord, whether or not textile covered, and textile thread covered or impregnated with vulcanised rubber;" shall be inserted;
- (36) in Chapter 44,—
 (i) in Note 1, in item (b), for the brackets, word, letters and figures "(Heading No. 13.01)", the brackets, word and figures "(Chapter 14)" shall be substituted;
 (ii) in Note 3, for the words "descriptions of plywood", the words "descriptions of fibre building board, plywood" shall be substituted;
- (37) in Heading No. 48.01/21, in column (2), the words "building board of wood pulp or vegetable fibre whether or not bonded with natural or artificial resins or similar binders;" shall be omitted;
- (38) in Section XI,—
 (i) in Note 2, for paragraphs (A) and (B), the following paragraphs shall be substituted, namely:—
 "(A) Goods classifiable in any Heading in Chapters 50 to 57 and of a mixture of two or more textile materials are to be classified as if consisting wholly of that one textile material which predominates in weight over any other single textile material.
 (B) For the purposes of the above rule:
 (a) metallised yarn is to be treated as a single textile material and its weight is to be taken as the aggregate of the weight of the textile and metal components; for the classification of woven fabrics, metal thread is to be regarded as a textile material;
 (b) where a Heading refers to goods of different textile materials [for example: (i) silk and waste silk, (ii) carded sheep's or lambs' wool and combed sheep's or lambs' wool], such materials are to be treated as a single textile material.";
- (ii) after Note 5, the following Note shall be inserted, namely:—
 "6. The woven fabrics of Chapters 50 to 57 are to be taken to include fabrics consisting of layers of parallel textile yarns superimposed on each other at acute or right angles. These layers are bonded at the intersections of the yarns by an adhesive or by thermal bonding.";
- (39) in Heading No. 50.09/10 for Sub-heading No. (2) in column (2), the following Sub-heading shall be substituted, namely:—
 "(2) Fabrics, not elsewhere specified";
- (40) in Heading No. 57.05/08 in column (2), the words "of hemp," shall be omitted;
- (41) in Heading No. 57.09/12, in column (2), the words "of hemp," shall be omitted;
- (42) in Chapter 59,—
 (i) Note 1 shall be lettered as paragraph (A) of that Note and after paragraph (A) as so lettered, the following paragraph shall be inserted, namely:—
 "(B) Throughout this Schedule, the term 'felt' is to be taken to include fabrics consisting of a web of textile fibres the cohesion of which has been enhanced by a stitch-bonding process using fibres from the web itself,"
 (ii) in Note 4, in item (a), in sub-item (iv), for the words "felts, whether or not", the words "fabrics, whether or not felted," shall be substituted;
- (43) in Chapter 60, after Note 4, the following Note shall be inserted, namely:—
 "5. Throughout this Schedule, any reference to knitted goods shall be taken to include a reference to stitch-bonded goods in which the chain stitches are formed of textile yarn.";
- (44) in Section XII, in the title, the word "FANS" shall be omitted;
- (45) in Heading No. 66.01/03, in column (2), for the words "walking-sticks and the like", the words "walking-sticks, canes, whips, riding-crops and the like" shall be substituted;
- (46) in Chapter 67,—
 (i) in the title, the word "fans" shall be omitted;
 (ii) in the Note, in item (e), the words "feather dusters," shall be omitted;
- (47) in Heading No. 67.01/05, in column (2),—
 (i) after the words "wigs and the like, and animal hair", the words "and other textile materials" shall be inserted;
 (ii) the words and brackets "fans (non-mechanical)" shall be omitted;
- (48) in Chapter 68, in the Note, in item (k), after the word and figures "Chapter 95", the words, figures, brackets and letter "if made of materials specified in Note 2 (b) to Chapter 95" shall be inserted;
- (49) in Chapter 71,—
 (i) in Note 2,—
 (a) item (ij) shall be omitted;
 (b) item (k) shall be relettered as item (ij);

- (c) items (l) to (g) shall be relettered respectively as items (k) to (p);
- (ii) in Note 4, in the opening paragraph, after the words "sintered mixture", the words "and an intermetallic compound" shall be inserted;
- (50) in Section XV,—
- (i) in Note 1, in item (d), for the words "walking-sticks and the like", the words "walking-sticks, canes, whips, riding-ropes and the like" shall be substituted;
- (ii) for Note 3, the following Note shall be substituted, namely:—
- "3. Classification of alloys (other than ferro-alloys and master alloys as defined in Chapters 73 and 74):
- (a) an alloy of base metals is to be classified as an alloy of the metal which predominates by weight over each of the other metals;
- (b) an alloy composed of base metals of this Section and of elements not falling within this Section is to be treated as an alloy of base metals of this Section if the total weight of such metals equals or exceeds the total weight of the other elements present;
- (c) in this Section, the term "alloys" is to be taken to include sintered mixtures of metal powders, heterogeneous intimate mixtures obtained by melting (other than cermets) and intermetallic compounds."
- (51) in Heading No. 74.09/19, in column (2), for the words "Other articles of copper", the words "Other articles of copper including nails, tacks, staples, hook-nails, spiked cramps, studs, spikes and drawing pins of iron or steel with heads of copper" shall be substituted;
- (52) in Chapter 76, in Note 1, in item (c), for the figures and word "0.15 millimetre", the figures and word "0.20 millimetre" shall be substituted;
- (53) in Heading No. 81.01/04 in column (2), for the words "other based metals, wrought or unwrought", the words "other base metals and cermets, wrought or unwrought" shall be substituted;
- (54) in Section XVI, in Note 1,—
- (i) in item (a), after the words "electrical appliances", the words "or for other industrial purposes" shall be inserted;
- (ii) in item (b), for the words "for industrial purposes", the words "for other industrial purposes" shall be substituted;
- (55) in Heading No. 84.04/05, in column (2), for the words "steam and other vapour power units, not incorporating boilers", the words "steam or other vapour power units, whether or not incorporating boilers" shall be substituted;
- (56) in Heading No. 84.59, in sub-heading No. (2), in column (2), the words "such as oil, soap or edible fats, artificial plastics, rubber or other similar products, electric wires and cables, ropes, baskets and brushes, cigars and cigarettes" shall be omitted;
- (57) in Heading No. 85.11, in column (2), for the words "electric welding, brazing and soldering machines and apparatus and similar electric machines and apparatus for cutting", the words "electric or laser-operated welding, brazing, soldering or cutting machines and apparatus" shall be substituted;
- (58) in Heading No. 85.18/27, in column (2),—
- (i) in the opening paragraph,—
- (a) the words "and electrically ignited photographic flash bulbs" shall be omitted;
- (b) after the words "semi-conductor devices", the words "light emitting diodes", shall be inserted;
- (ii) in Sub-heading No. (4), the words "electrically ignited photographic flash bulbs" shall be omitted;
- (59) in Heading No. 87.09/12, in column (2),—
- (i) in the opening paragraph, for the words and brackets "invalid carriages fitted with means of mechanical propulsion ('motorised or not)", the words "invalid carriages, whether or not motorised or otherwise mechanically propelled" shall be substituted;
- (ii) for Sub-heading No. (3), the following Sub-heading shall be substituted, namely:—
- "(3) Invalid carriages, whether or not motorised or otherwise mechanically propelled, and parts and accessories thereof";
- (60) for Heading No. 87.13/14 and the entry in column (2), the following shall be substituted, namely:—
- "87.13/14 other vehicles (including trailers and baby carriages), not mechanically propelled and parts thereof";
- (61) in Heading No. 89.01/03, in column (2), after the words "floating docks", the words "floating or submersible drilling or production platforms" shall be inserted;
- (62) in Section XVIII, in the title, for the words "SOUND RECORDERS AND REPRODUCERS, TELEVISION IMAGE AND SOUND RECORDERS AND REPRODUCERS, MAGNETIC", the words "SOUND RECORDERS OR REPRODUCERS; TELEVISION IMAGE AND SOUND RECORDERS OR REPRODUCERS" shall be substituted;
- (63) in Heading No. 90.07, in column (2), after the words "flashlight apparatus", the words and figures "and flash bulbs other than discharge lamps of Heading No. 85.18/27" shall be inserted;
- (64) in Heading No. 90.13, in column (2), after the words "this Chapter", the words "lasers, other than laser diodes" shall be inserted;
- (65) in Chapter 92, in the title, for the words "sound recorders and reproducers; television image and sound recorders and reproducers, magnetic", the words "sound recorders or reproducers; television image and sound recorders or reproducers" shall be substituted;
- (66) in Heading No. 92.01/13, in column (2), for the words "recorders and reproducers, magnetic", the words "recorders or reproducers" shall be substituted;
- (67) in Chapter 95,—
- (i) for the word "NOTE", the word "NOTES" shall be substituted;
- (ii) the existing Note shall be numbered as Note 1, and in Note 1 as so numbered,—
- (a) item (b) shall be omitted;
- (b) items (c) to (j) shall be relettered respectively as item (d) to (h);
- (c) item (k) shall be relettered as item (i);
- (d) items (l) to (n) shall be relettered respectively as items (k) to (m);
- (iii) after Note 1 as so numbered, the following Note shall be inserted, namely:—
- "2. In this Chapter, the expression "vegetable or mineral carving material" is to be taken to apply to:
- (a) hard seeds, pips, hulls and nuts and similar vegetable materials of a kind used for carving (for example, corozo and dom);
- (b) jet (and mineral substitutes for jet), amber, meerschaum agglomerated amber and agglomerated meerschaum."

- (68) in Heading No. 95.01/08, for the words "worked unhardened gelatin", the words "worked vegetable or mineral carving material and worked unhardened gelatin" shall be substituted;
- (69) in Chapter 96, in the title, the words "feather dusters," shall be omitted;

(70) in Heading No. 96.01/06, in column (2), the words "feather dusters;" shall be omitted;

(71) in Heading No. 98.12/14, in column (2) the words "corset busks and similar supports for articles of apparel or clothing accessories;" shall be omitted;

PART II

Heading No.	Sub-heading No. and description of article	Rate of duty		Duration when rates of duty are protective
		Standard	Preferential Areas	
1	2	3	4	5
In the First Schedule to the principal Act,—				
(i) in Heading No. 08.01/13, after Sub-heading No. (5), the following Sub-heading shall be inserted, namely:—				
"08.01/13 (6) Betel-nuts Rs. 3.07 per kilogram Rs. 3.00 per kilogram ..";				
(ii) for Heading No. 14.01/05, the following Heading shall be substituted, namely:—				
"14.01/05	Vegetable materials of a kind used primarily for plaiting, stuffing or in brushes or in brooms; vegetable products not elsewhere specified or including:			
	(1) Not elsewhere specified	60%	..	
	(2) Raw vegetable materials of a kind used primarily in dyeing or in tanning	40%	..	
(iii) for Heading No. 17.01, the following Heading shall be substituted, namely:—				
"17.01	Beet Sugar and Cane Sugar, in solid form:			
	(1) Not elsewhere specified	60%	..	
	(2) Flavoured or coloured	100%	..	
(iv) for Heading No. 17.03, the following Heading shall be substituted, namely:—				
"17.03	Molasses:			
	(1) Not elsewhere specified	60%	..	
	(2) Flavoured or coloured	100%	..	
(v) after Heading No. 27.14/16, the following Heading shall be inserted, namely:—				
"27.17	Electric current	Free	..	
(vi) for Heading Nos. 32.01 and 32.02/03, the following Heading shall be substituted, namely:—				
"32.01/03	Tanning extracts of vegetable origin, tanning (tannic acids) and their derivatives, synthetic organic tanning substances and inorganic tanning substances, tanning preparations, whether or not containing natural tanning materials; Enzymatic preparations for pre-tanning (for example, of enzymatic, pancreatic or bacterial origin):			
	(1) Not elsewhere specified	60%	..	
	(2) Gambier	60%	50%	
	(3) Mineral tanning and tanning extracts of vegetable origin other than Gambier	40%	..	
(vii) for Heading No. 39.01/06, the following Heading shall be substituted, namely:—				
"39.01/06	Condensation, polycondensation and polyaddition products, whether or not modified or polymerised, and whether or not linear (for example, pheno-plasts, aminoplasts, alkyds, polyallyl esters and other unsaturated polyesters, silicones); polymerisation and co-polymerisation products for example, polyethylene, polytetrahaloethylenes, polyisobutylene, polystyrene, polyvinyl chloride, polyvinyl acetate, polyvinyl chloroacetate and other polyvinyl derivatives, polyacrylic and polymethacrylic derivatives, coumarone-indene resins) regenerated cellulose, cellulose nitrate, cellulose acetate and other cellulose esters, cellulose ethers and other chemical derivatives of cellulose, plasticised or not (for example, collodions, celluloid), vulcanised fibre, hardened proteins (for example, hardened casein and hardened gelatin), natural resins modified by fusion (run gums), artificial resins obtained by esterification of natural resins or of resinic acids ester gums), chemical derivatives of natural rubber (for example, chlorinated rubber, rubber hydrochloride, oxidised rubber, cyclised rubber); other high polymers, artificial resins and artificial plastic materials, including alginate acid, its salts and esters; linoleum	100%	..	
(viii) for Heading No. 44.01/28, the following Heading shall be substituted, namely:—				
"44.01/28	Wood in the rough, fuel wood, woodwaste and wood charcoal; wood flour and wood wool; sawn and dressed timber; veneered wood, plywood, cellular wood, improved wood and reconstituted wood; fibre, building board of wood or other vegetable material, whether or not bonded with natural or artificial resins or with other organic binders; spools, bobbins and the like of turned wood; articles of wood, not elsewhere specified:			

1	2	3	4	5
	(1) Not elsewhere specified	60%		
	(2) Fibre building board of wood or other vegetable material, whether or not bonded with natural or artificial resins or with other organic binders	100%		..
(ix) for Heading Nos. 50.03/07 and 50.08, the following Heading shall be substituted, namely:—				
"50.03/08	Silk waste (including cocoons unsuitable for reeling, silk noils and pulled or garnetted rags); silk yarn; silk worm gut and imitation catgut of silk:			
	(1) Not elsewhere specified	.. 50% Plus Rs. 8.80 per kilogram.	..	December 31st, 1979.
	(2) Silk worm gut and imitation catgut of silk	.. 100%

Assented to on 3-8-1978.

THE MAINTENANCE OF INTERNAL SECURITY (REPEAL) ACT, 1978

(ACT No. 27 OF 1978)

AN

ACT

to repeal the Maintenance of Internal Security Act, 1971.

Be it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Maintenance of Internal Security (Repeal) Act, 1978.

2. *Repeal of Act 20 of 1971.*—The Maintenance of Internal Security Act, 1971, is hereby repealed.

Assented to on 4-8-1978.

THE INSOLVENCY LAWS (AMENDMENT) ACT, 1978

(ACT No. 28 OF 1978)

AN

ACT

further to amend the Presidency-towns Insolvency Act, 1909 and the Provincial Insolvency Act, 1920.

Be it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Insolvency Laws (Amendment) Act, 1978.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of Act 3 of 1909.*—In the Presidency-towns Insolvency Act, 1909,—

(a) section 9 (excluding the *Explanation*) shall be Renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-sections shall be inserted, namely:—

“(2) Without prejudice to the provisions of sub-section (1) a debtor commits an act of insolvency if a creditor, who has obtained a decree or order against him for the payment of money (being a decree or order which has become final and the execution whereof has not been stayed), has served on him a notice (hereafter in this section referred to as the insolvency notice) as provided in sub-section (3) and the debtor does not comply with that notice within the period specified therein:

Provided that where a debtor makes an application under sub-section (5) for setting aside an insolvency notice—

(a) in a case where such application is allowed by the Court, he shall not be deemed to have committed an act of insolvency under this sub-section; and

(b) in a case where such application is rejected by the Court, he shall be deemed to have committed an act of insolvency under this sub-section on the date of rejection of the application or the expiry of the period

specified in the insolvency notice for its compliance, whichever is later:

Provided further that no insolvency notice shall be served on a debtor residing, whether permanently or temporarily, outside India, unless the creditor obtains the leave of the Court therefor.

(3) An insolvency notice under sub-section (2) shall—

(a) be in the prescribed form;

(b) be served in the prescribed manner;

(c) specify the amount due under the decree or order and require the debtor to pay the same or to furnish security for the payment of such amount to the satisfaction of the creditor or his agent;

(d) specify for its compliance a period of not less than one month after its service on the debtor or, if it is to be served on a debtor residing, whether permanently or temporarily, outside India, such period (being not less than one month) as may be specified by the order of the Court granting leave for the service of such notice;

(e) state the consequences of non-compliance with the notice.

(4) No insolvency notice shall be deemed to be invalid by reason only that the sum specified therein as the amount due under the decree or order exceeds the amount actually due, unless the debtor, within the period specified in the insolvency notice for its compliance, gives notice to the creditor that the sum specified in the insolvency notice does not correctly represent the amount due under the decree or order:

Provided that if the debtor does not give any such notice as aforesaid, he shall be deemed to have complied with the insolvency notice if, within the period specified therein for its compliance, he takes such steps as would have constituted a compliance with the insolvency notice had the actual amount due been correctly specified therein.

(5) Any person served with an insolvency notice may, within the period specified therein for its compliance, apply to the Court to set aside the insolvency notice on any of the following grounds, namely:—

(a) that he has a counter-claim or set off against the creditor which is equal to or is in excess of the amount due under the decree or order and which he could not, under any law for the time being in force, prefer in the suit or proceeding in which the decree or order was passed;

(b) that he is entitled to have the decree or order set aside under any law providing for the relief of indebtedness and that—

(i) he has made an application before the competent authority under such law for the setting aside of the decree or order; or

- (ii) the time allowed for the making of such application has not expired;
- (c) that the decree or order is not executable under the provisions of any law referred to in clause (b) on the date of the application.”;
- (b) in section 112, in sub-section (2), after clause (m), the following clause shall be inserted, namely:—
“(m) the form of the insolvency notice under clause (a), and the manner in which such notice may be served under clause (b), of sub-section (3) of section 9;”.

3. *Amendment of Act 5 of 1920.*—In the Provincial Insolvency Act, 1920,—

- (a) section 6 (excluding the *Explanation*) shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-sections shall be inserted, namely:—
“(2) Without prejudice to the provisions of sub-section (1), a debtor commits an act of insolvency if a creditor, who has obtained a decree or order against him for the payment of money (being a decree or order which has become final and the execution where of has not been stayed), has served on him a notice (hereafter in this section referred to as the insolvency notice) as provided in sub-section 3) and the debtor does not comply with that notice within the period specified therein:

Provided that where a debtor makes an application under sub-section (5) for setting aside an insolvency notice—

- (a) in a case where such application is allowed by the District Court, he shall not be deemed to have committed an act of insolvency under this sub-section; and
- (b) in a case where such application is rejected by the District Court, he shall be deemed to have committed an act of insolvency under this sub-section on the date of rejection of the application or the expiry of the period specified in the insolvency notice for its compliance, whichever is later:

Provided further that no insolvency notice shall be served on a debtor residing, whether permanently or temporarily, outside India unless the creditor obtains the leave of the District Court there for.

- (3) An insolvency notice under sub-section (2) shall—
(a) be in the prescribed form;
- (b) be served in the prescribed manner;
- (c) specify the amount due under the decree or order and require the debtor to pay the same or to furnish security for the payment of such amount to the satisfaction of the creditor or his agent;
- (d) specify for its compliance a period of not less than one month after its service on the debtor or, if it is to be served on a debtor residing, whether permanently or temporarily, outside India, such period (being not less than one month) as may be specified by the order of the District Court granting leave for the service of such notice;
- (e) state the consequences of non-compliance with the notice.
- (4) No insolvency notice shall be deemed to be invalid by reason only that the sum specified therein as the amount due under the decree or order exceeds the amount actually due, unless the debtor, within the period specified in the insolvency notice for its compliance, gives notice to the creditor that the sum specified in the insolvency notice does not correctly represent the amount due under the decree or order:

Provided that if the debtor does not give any such notice as aforesaid, he shall be deemed to have complied with the insolvency notice if, within the period specified therein for its compliance, he takes such steps as would have constituted a

compliance, with the insolvency notice had the actual amount due been correctly specified therein.

- (5) Any person served with an insolvency notice may, within the period specified therein for its compliance, apply to the District Court to set aside the insolvency notice on any of the following grounds, namely:—
(a) that he has a counter-claim or set-off against the creditor which is equal to or is in excess of the amount due under the decree or order and which he could not, under any law for the time being in force, prefer in the suit or proceeding in which the decree or order was passed;
- (b) that he is entitled to have the decree or order set aside under any law providing for the relief of indebtedness and that—
(i) he has made an application before the competent authority under such law for the setting aside of the decree or order; or
(ii) the time allowed for the making of such application has not expired;
- (c) that the decree or order is not executable under the provisions of any law referred to in clause (b) on the date of the application.”;

- (b) in section 79, in sub-section (2), clause (a) shall be relettered as clause (aa) thereof, and before clause (aa) as so relettered, the following clause shall be inserted, namely:—

“(a) the form of the insolvency notice under clause (a), and the manner in which such notice may be served under clause (b), of sub-section (3) of section 6;”.

Assented to on 5-8-1978.

THE TAXATION LAWS (AMENDMENT) ACT,
1978

(ACT No. 29 OF 1978)

AN
ACT

further to amend the Income-tax Act, 1961 and the Wealth-tax Act, 1957.

Enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Taxation Laws (Amendment) Act, 1978.
(2) It shall come into force on the 1st day of April, 1979.

2. *Amendment of Act 43 of 1961.*—In the Income-tax Act, 1961,—

- (a) in Chapter III, after section 13, the following section shall be inserted, namely:—

‘13A. *Special provision relating to incomes of political parties.*—Any income of a political party which is chargeable under the head “Interest on securities”, “Income from house property” or “Income from other sources” or any income by way of voluntary contributions received by a political party from any person shall not be included in the total income of the previous year of such political party:

Provided that—

- (a) such political party keeps and maintains such books of account and other documents as would enable the Income-tax Officer to properly deduce its income therefrom;
- (b) in respect of each such voluntary contribution in excess of ten thousand rupees, such political party keeps and maintains a record of such contribution and the name and address of the person who has made such contribution; and

- (c) the accounts of such political party are audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288.

Explanation.—For the purposes of this section, “political party” means an association or body of individual citizens of India registered with the Election Commission of India as a political party under paragraph 3 of the Election Symbols (Reservation and Allotment) Order, 1968 and includes a political party deemed to be registered with that Commission under the proviso to sub-paragraph (2) of that paragraph;—

- (b) in section 37,—

- (i) after sub-section (2A), the following sub-section shall be inserted, namely:—

“(2B) Notwithstanding anything contained in sub-section (1), no allowance shall be made in respect of expenditure incurred by an assessee on advertisement in any souvenir, brochure, tract, pamphlet or the like published by a political party;—

- ii) in sub-section (3A) (as directed to be inserted by section 8 of the Finance Act, 1978) (19 of 1978),—

- (1) for the words, brackets and figure “the provisions of sub-section (3)”, the words, brackets, figures and letter “the provisions of sub-section (2B) of sub-section (3)” shall be substituted;

- (2) in the *Explanation*, in clause (a), for the words, brackets and figure “under sub-section (3)”, the words, brackets, figures and letter “under sub-section (2B), or sub-section (3), or both” shall be substituted;

- (c) in section 139, after sub-section (4A), the following sub-section shall be inserted, namely:—

“(4B) The chief executive officer (whether such chief executive officer is known as Secretary or by any other designation) of every political party shall, if the total income in respect of which the political party is assessable (the total income for this purpose being computed under this Act (without giving effect to the provisions of section 13A) exceeds the maximum amount which is not chargeable to income-tax, furnish a return of such income of the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and all the provisions of this Act, shall, so far as may be, apply as if it were a return required to be furnished under sub-section (1).”

3. *Amendment of Act 27 of 1957.*—In the Wealth-tax Act, 1957, in section 45, after clause (h), the following clause and *Explanation* shall be inserted, namely:—

- “(i) any political party.

Explanation.—For the purposes of clause (i), “political party” shall have the meaning assigned to it in the *Explanation* to section 13A of the Income-tax Act.”

Assented to on 18-8-1978.

THE COAST GUARD ACT, 1978

(ACT NO. 30 OF 1978)

AN
ACT

to provide for the constitution and regulation of an Armed Force of the Union for ensuring the security of the maritime zones of India with a view to the protection of maritime and other national interests in such zones and for matters connected therewith.

Enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

CHAPTER I PRELIMINARY

1. *Short title and commencement.*—(1) This Act may be called the Coast Guard Act, 1978.

- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

- (a) “Chief Law Officer” and “Law Officer” mean, respectively, the Chief Law Officer and a Law Officer of the Coast Guard appointed under section 115;
- (b) “civil offence” means an offence which is triable by a criminal court;
- (c) “civil prison” means any jail or place used for the detention of any criminal prisoner under the Prisons Act, 1894 (9 of 1894), or under any other law for the time being in force;
- (d) “Coast Guard” means the Coast Guard constituted under this Act;
- (e) “Coast Guard Court” means a court convened under section 64;
- (f) “Coast Guard Custody” means the arrest or confinement of a member of the Coast Guard according to rules;
- (g) “Commanding Officer”, when used in any provision of this Act with reference to any unit or ship of the Coast Guard, means the officer whose duty it is under the rules to discharge with respect to that unit or ship, the functions of a Commanding Officer in regard to matters of the description referred to in that provision;
- (h) “criminal court” means a court of ordinary criminal justice in any part of India;
- (i) “Deputy Inspector-General” means a Deputy Inspector-General of the Coast Guard appointed under section 5;
- (j) “Director-General” means the Director-General of the Coast Guard appointed under section 5;
- (k) “enrolled person” means subordinate officer, sailor or other person enrolled under this Act;
- (l) “Inspector-General” means an Inspector-General of the Coast Guard appointed under section 5;
- (m) “maritime zones of India” means the territorial waters, the contiguous zone, the continental shelf, the exclusive economic zone or any other maritime zone of India;
- (n) “member of the Coast Guard” means an officer, a subordinate officer, a sailor or other enrolled person;
- (o) “notification” means a notification published in the Official Gazette;
- (p) “offence” means any act or omission punishable under this Act and includes a civil offence;
- (q) “officer” means a person appointed or in pay as an officer of the Coast Guard, but does not include a subordinate officer, sailor or other enrolled person;
- (r) “prescribed” means prescribed by rules made under this Act;
- (s) “rule” means a rule made under this Act;
- (t) “sailor” means a member of the Coast Guard other than an officer, a subordinate officer or other enrolled person;
- (u) “ship” except in the expression “on board as ship”, means a Coast Guard vessel, and includes any establishment or station belonging to, or under the control of, the Coast Guard whether within or without India;
- (v) “skipper” means a subordinate officer in command of a ship;
- (w) “subordinate officer” means a person appointed or in pay as a *Pradhan Adhikari*, a *Pradhan Sahayak Engineer*, an *Uttam Adhikari*, and *Uttam Sahayak Engineer*, an *Adhikari* or a *Sahayaka Engineer* of the Coast Guard;
- (x) “superior officer”, when used in relation to a person subject to this Act, means any officer or subordinate officer—
- (i) who is senior to that person under the rules; or

- (ii) who is entitled under this Act or the rules to give a command to that person;
- (v) "territorial waters", "contiguous zone", "continental shelf" and "exclusive economic zone", shall have the meanings respectively assigned to them in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976 (80 of 1976);
- (2) all words and expressions used and not defined in this Act but defined in the Indian Penal Code (45 of 1860) shall have the meanings assigned to them in that Code.
3. *Persons subject to this Act.*—(1) The following persons shall be subject to this Act, wherever they may be, namely:—
- (a) officers;
 - (b) subordinate officers and other persons enrolled under this Act;
 - (c) persons who have, by general or special order of the Central Government, been required to serve in a ship, to such extent and subject to such conditions as may be prescribed; and
 - (d) persons ordered to be received, or being passengers, on board any ship or aircraft of the Coast Guard to such extent and subject to such conditions as may be prescribed.
- (2) Every person referred to in clauses (a) and (b) of sub-section (1) shall remain so subject until he retires, or he is discharged, released, removed or dismissed from the Coast Guard in accordance with the provisions of this Act and the rules.

CHAPTER II

CONSTITUTION OF THE COAST GUARD AND CONDITIONS OF SERVICE OF THE MEMBERS OF THE COAST GUARD

4. *Constitution of the Coast Guard.*—(1) There shall be an armed force of the Union called the Coast Guard for ensuring the security of the maritime zones of India with a view to the protection of maritime and other national interests in such zones.

(2) Subject to the provisions of this Act, the Coast Guard shall be constituted in such manner as may be prescribed and the conditions of service of the members of the Coast Guard shall be such as may be prescribed.

5. *Control, direction, etc.*—(1) The general superintendence, direction and control of the Coast Guard shall vest in, and be exercised by, the Central Government and subject thereto, and to the provisions of this Act and the rules, the command and supervision of the Coast Guard shall vest in an officer to be appointed by the Central Government as the Director-General of the Coast Guard.

(2) The Director-General shall, in the discharge of his duties under this Act, be assisted by such number of Inspectors-General, Deputy Inspectors-General, Commandant and such other officers as may be appointed, by the Central Government.

6. *Enrolment.*—(1) The persons to be enrolled to the Coast Guard, the mode of enrolment and the procedure for enrolment shall be such as may be prescribed.

(2) Notwithstanding anything contained in this Act and the rules, every person who has, for a continuous period of three months, been in receipt of pay as a person enrolled under this Act and borne on the rolls of the Coast Guard shall be deemed to have been duly enrolled.

7. *Liability for service outside India.*—Every member of the Coast Guard shall be liable to serve in any part of India as well as outside India.

8. *Oath of allegiance.*—Every member of the Coast Guard shall, as soon as may be, after appointment or enrolment to the Coast Guard, make and subscribe before his Commanding Officer or other prescribed officer, an oath or affirmation in the prescribed form.

9. *Resignation and withdrawal from the post.*—No member of the Coast Guard shall be at liberty—

- (a) to resign his appointment during the term of his engagement; or
- (b) to withdraw himself from all or any of the duties of his appointment, except with the previous permission in writing of the prescribed authority.

10. *Tenure of service under the Act.*—Every member of the Coast Guard shall hold office during the pleasure of the President.

11. *Dismissal or removal by Central Government and by other officers.*—Subject to the provisions of this Act and the rules—

- (a) the Central Government may dismiss or remove from service any member of the Coast Guard;
- (b) the Director-General or any Inspector-General may dismiss or remove from the Coast Guard any person other than an officer;
- (c) any prescribed officer not below the rank of a Deputy Inspector-General may dismiss or remove from the Coast Guard any person under his command other than an officer or a subordinate officer.

12. *Certificate of termination of service.*—An enrolled person who retires, or is discharged, released, removed or dismissed from the Coast Guard or permitted to resign therefrom, shall be furnished by the officer, to whose command he is subject, with a certificate in the language which is the mother tongue of such person and also in Hindi or English language setting forth—

- (a) the authority terminating his service;
- (b) the reasons for such termination; and
- (c) the full period of his service in the Coast Guard.

13. *Restrictions respecting right to form association, freedom of speech, etc.*—(1) No member of the Coast Guard shall, without the previous sanction in writing of the Central Government or of the prescribed authority,—

- (a) be a member of, or be associated in any way with, any trade union, labour union, or political association; or
- (b) be a member of, or be associated in any way with, any society, institution, association or organisation that is not recognised as part of the Coast Guard or is not of a purely social, recreational or religious nature; or
- (c) communicate with the press or publish or cause to be published any book, letter or other document except where such communication or publication is in the bona fide discharge of his duties or is of a purely literary, artistic or scientific character or is of a prescribed nature.

Explanation.—If any question arises whether any society, institution, association or organisation is of a purely social, recreational or religious nature under clause (b) of this sub-section, the decision of the Central Government thereon shall be final.

(2) No member of the Coast Guard shall participate in, or address, any meeting or take part in any demonstration organised by any body of persons for any political purposes or for such other purposes as may be specified in this behalf by the Central Government.

CHAPTER III

DUTIES AND FUNCTIONS OF THE COAST GUARD

14. *Duties and functions of Coast Guard.*—(1) It shall be the duty of the Coast Guard to protect by such measures, as it thinks fit, the maritime and other national interests of India in the maritime zones of India.

(2) Without prejudice to the generality of the provisions of sub-section (1), the measures referred to therein may provide for—

- (a) ensuring the safety and protection of artificial islands, offshore terminals, installations and other structures and devices in any maritime zone;
- (b) providing protection to fishermen including assistance to them at sea while in distress;
- (c) taking such measures as are necessary to preserve and protect the maritime environment; and to

- prevent and control marine pollution;
- (d) assisting the customs and other authorities in anti-smuggling operations;
- (e) enforcing the provisions of such enactments as are for the time being in force in the maritime zones; and
- (f) such other matters, including measures for the safety of life and property at sea and collection of scientific data, as may be prescribed.

(3) The Coast Guard shall perform its functions under this section in accordance with, and subject to such rules as may be prescribed and such rules may, in particular, make provisions for ensuring that the Coast Guard functions in close liaison with Union agencies, institutions and authorities so as to avoid duplication of effort.

CHAPTER IV

OFFENCES

15. *Correspondence etc., with offenders.*—Any person subject to this Act, who,—

- (a) treacherously holds correspondence with, or communicates intelligence to, an offender; or
- (b) wilfully fails to make known to the proper authorities any information he may have received from an offender; or
- (c) assists the offender in any manner; or
- (d) having been captured by an offender, voluntarily serves with or aids him,

shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Explanation.—For the purposes of this section, “offender” includes—

- (a) all armed mutineers, armed rebels, armed rioters, pirates and any person in arms against whom it is the duty of any person subject to this Act to take action; and
- (b) any person or persons engaged in smuggling, unlawful exploration or exploitation or any other unlawful activity in the maritime zones of India.

16. *Deserting post and neglect of duty.*—Any person subject to this Act, who,—

- (a) deserts his post; or
- (b) sleeps upon his watch; or
- (c) fails to perform, or negligently performs, the duty imposed on him; or
- (d) wilfully conceals any words, practice or design tending to the hindrance of the Coast Guard,

shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

17. *Mutiny.*—Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) begins, incites, causes or conspires with any other person to cause any mutiny in the Coast Guard or in the military, naval or air forces of India or any forces co-operating therewith; or
- (b) joins in any such mutiny; or
- (c) being present at any such mutiny, does not use his utmost endeavours to suppress the same; or
- (d) knowing or having reason to believe in the existence of any such mutiny, or of any intention to mutiny or of any such conspiracy, does not, without delay, give information thereof to his Commanding Officer or other superior officer; or
- (e) endeavours to seduce any person in the Coast Guard or in the military, naval or air forces of India or any forces co-operating therewith from his duty or allegiance to the Union,

shall, on conviction by a Coast Guard Court, be liable to suffer death or such less punishment as is in this Act mentioned:

Provided that a sentence of death awarded under this section shall not be carried out unless it is confirmed by the Central Government.

18. *Persons on board ship or aircraft seducing Coast Guard personnel from allegiance.*—Any person not otherwise subject to this Act who, being on board any ship or aircraft belonging to or in the service of the Coast Guard endeavours to seduce any person subject to this Act from his allegiance to the Constitution or loyalty to the State or duty to his superior officers shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

19. *Striking or threatening superior officers.*—Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) uses criminal force to or assaults his superior officer; or
- (b) uses threatening language to such officer; or
- (c) uses insubordinate language to such officer; or
- (d) behaves with contempt to such officer,

shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned:

Provided that in the case of offences specified in clauses (c) and (d), the imprisonment shall not exceed five years.

20. *Disobedience to superior officer.*—(1) Any person subject to this Act who disobeys in such manner as to show a wilful defiance of authority any lawful command given personally by his superior officer in the execution of his office whether the same is given orally, or in writing or by signal or otherwise, shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

(2) Any person subject to this Act who disobeys any lawful command given by his superior officer, shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

21. *Ill-treating subordinates.*—Any person subject to this Act who uses criminal force to or otherwise ill-treats any other person subject to this Act, being his subordinate in rank or position, shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

22. *Quarrelling, fighting and disorderly behaviour.*—Any person subject to this Act, who,—

- (a) quarrels, fights with or strikes any other person, whether such person is or is not subject to this Act; or
- (b) uses reproachful or provoking speeches or gestures tending to make a quarrel or disturbance; or
- (c) behaves in a disorderly manner,

shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

23. *Certain forms of disgraceful conduct.*—Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) is guilty of any disgraceful conduct of cruel, indecent or unnatural kind; or
- (b) malingers, or feigns, or produces disease or infirmity in himself or intentionally delays his cure or aggravates his disease or infirmity; or
- (c) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or that person,

shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

24. *Drunkenness.*—(1) Any person subject to this Act, who is guilty of drunkenness shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to six months or such less punishment as is in this Act mentioned.

(2) For the purposes of sub-section (1), a person shall be deemed to be guilty of drunkenness if, owing to the influence of alcohol or any drug whether alone or in

combination with any other circumstances, he is unfit to be entrusted with his duty or with any duty which he may be called upon to perform or behaves in a disorderly manner or in a manner likely to bring discredit to the Coast Guard.

25. Desertion and aiding desertion.—(1) Any person subject to this Act, who absents himself from his ship or from the place where his duty requires him to be, with an intention of not returning to such ship or place, or who, at any time and under any circumstances when absent from his ship or place of duty does any act which shows that he has an intention of not returning to such ship or place is said to desert.

(2) Every person who deserts or attempts to desert the Coast Guard shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

(3) Any person subject to this Act, who knowingly harbours any such deserter, shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

26. Breaking out of ship and absence without leave.—Any person subject to this Act, who without being guilty of desertion improperly leaves his ship or place of duty or is absent without leave shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned, and shall also be punished by such mulcts of pay and allowances as may be prescribed.

27. Losing ship or aircraft.—(1) Any person subject to this Act who wilfully loses, strands or hazards or suffers to be lost, stranded or hazarded any ship belonging to or in the service of the Coast Guard, or loses or suffers to be lost any aircraft belonging to or in the service of the Coast Guard shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

(2) Any person subject to this Act, who negligently or by any default loses, strands or hazards or suffers to be lost, stranded or hazarded any ship belonging to or in the service of the Coast Guard, or loses or suffers to be lost any aircraft belonging to or in the service of the Coast Guard shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

28. Dangerous unauthorised flying.—Any person subject to this Act who is guilty of any act or neglect in flying or in the use of any aircraft belonging to or in the service of the Coast Guard, or in relation to any such aircraft or aircraft material, which causes or is likely to cause loss of life or bodily injury to any person shall, on conviction by a Coast Guard Court,—

- (a) if he acts wilfully or with wilful neglect, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned; and
- (b) in any other case, be liable to suffer imprisonment for a term which may extend to two years or such, less punishment as is in this Act mentioned.

29. Inaccurate certificate.—Any person subject to this Act who signs any certificate in relation to an aircraft belonging to or in the service of the Coast Guard or to any material thereof without ensuring its accuracy shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

30. Low flying and annoyance by flying.—Any person subject to this Act, being the pilot of an aircraft belonging to or in the service of the Coast Guard, who—

- (a) flies it at a height lower than the minimum height authorised by his Commanding Officer except while taking off or landing; or

(b) flies it so as to cause or likely to cause unnecessary annoyance to any person, shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

31. Disobedience of lawful command of captain of an aircraft.—Any person subject to this Act, who while he is in an aircraft belonging to or in the service of the, Coast Guard, disobeys any lawful command given by the captain of the aircraft whether such captain is subject to this Act or not, in relation to all matters relating to flying or handling of the aircraft or affecting the safety thereof, shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

32. False accusations.—Any person subject to this Act, who commits any of the following offences, that is to say,—

- (a) makes a false accusation against any person subject to this Act, knowing or having reason to believe such accusation to be false; or
- (b) in making a complaint against any person subject to this Act makes any statement affecting the character of such person, knowing or having reason to believe such statement to be false or knowingly or wilfully suppresses any material facts,

shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

33. Falsifying official documents and false declarations.—Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) in any report, return, list, certificate, book or other document made or signed by him, or of the contents of which it is his duty to ascertain the accuracy, knowingly makes, or is privy to the making of, any false or fraudulent statement; or
- (b) in any document of the description mentioned in clause (a) knowingly makes, or is privy to the making of, any omission, with intent to defraud; or
- (c) knowingly and with intent to injure any person, or knowingly and with intent to defraud, suppresses, defaces, alters or makes away with any document which it is his duty to preserve or produce; or
- (d) where it is his official duty to make a declaration respecting any matter, knowingly makes a false declaration; or
- (e) obtains for himself, or for any other person, any pension, allowance or other advantage or privilege by a statement which is false, and which he either knows or believes to be false, or does not believe to be true, or by making or using a false entry in any book or record, or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement,

shall, on conviction by Coast Guard Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

34. Offences in respect of property.—Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) commits theft of any property belonging to the Government or to any Coast Guard mess, or institution, or to any person subject to this Act; or
- (b) dishonestly misappropriates or converts to his own use any such property; or
- (c) commits criminal breach of trust in respect of any such property; or
- (d) dishonestly receives or retains any such property in respect of which any of the offences under clauses (a), (b) and (c) has been committed, knowing or having reason to believe the commission of such offence; or
- (e) wilfully destroys or damages any property of the Government entrusted to him; or

combination with any other circumstances, he is unfit to be entrusted with his duty or with any duty which he may be called upon to perform or behaves in a disorderly manner or in a manner likely to bring discredit to the Coast Guard.

25. Desertion and aiding desertion.—(1) Any person subject to this Act, who absents himself from his ship or from the place where his duty requires him to be, with an intention of not returning to such ship or place, or who, at any time and under any circumstances when absent from his ship or place of duty does any act which shows that he has an intention of not returning to such ship or place is said to desert.

(2) Every person who deserts or attempts to desert the Coast Guard shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

(3) Any person subject to this Act, who knowingly harbours any such deserter, shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

26. Breaking out of ship and absence without leave.—Any person subject to this Act, who without being guilty of desertion improperly leaves his ship or place of duty or is absent without leave shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned, and shall also be punished by such multiples of pay and allowances as may be prescribed.

27. Losing ship or aircraft.—(1) Any person subject to this Act who wilfully loses, strands or hazards or suffers to be lost, stranded or hazarded any ship belonging to or in the service of the Coast Guard, or loses or suffers to be lost any aircraft belonging to or in the service of the Coast Guard shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

(2) Any person subject to this Act, who negligently or by any default loses, strands or hazards or suffers to be lost, stranded or hazarded any ship belonging to or in the service of the Coast Guard, or loses or suffers to be lost any aircraft belonging to or in the service of the Coast Guard shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

28. Dangerous unauthorised flying.—Any person subject to this Act who is guilty of any act or neglect in flying or in the use of any aircraft belonging to or in the service of the Coast Guard, or in relation to any such aircraft or aircraft material, which causes or is likely to cause loss of life or bodily injury to any person shall, on conviction by a Coast Guard Court,—

(a) if he acts wilfully or with wilful neglect, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned; and

(b) in any other case, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

29. Inaccurate certificate.—Any person subject to this Act who signs any certificate in relation to an aircraft belonging to or in the service of the Coast Guard or to any material thereof without ensuring its accuracy shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

30. Low flying and annoyance by flying.—Any person subject to this Act, being the pilot of an aircraft belonging to or in the service of the Coast Guard, who—

(a) flies it at a height lower than the minimum height authorised by his Commanding Officer except while taking off or landing; or

(b) flies it so as to cause or likely to cause unnecessary annoyance to any person,

shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

31. Disobedience of lawful command of captain an aircraft.—Any person subject to this Act, who while he is in an aircraft belonging to or in the service of the Coast Guard, disobeys any lawful command given by the captain of the aircraft whether such captain is subject to this Act or not, in relation to all matters relating to flying or handling of the aircraft or affecting the safety thereof, shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

32. False accusations.—Any person subject to this Act, who commits any of the following offences, that is to say,—

(a) makes a false accusation against any person subject to this Act, knowing or having reason to believe such accusation to be false; or
(b) in making a complaint against any person subject to this Act makes any statement affecting the character of such person, knowing or having reason to believe such statement to be false or knowingly or wilfully suppresses any material facts,

shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

33. Falsifying official documents and false declarations.—Any person subject to this Act who commits any of the following offences, that is to say,—

(a) in any report, return, list, certificate, book or other document made or signed by him, or of the contents of which it is his duty to ascertain the accuracy, knowingly makes, or is privy to the making of, any false or fraudulent statement; or
(b) in any document of the description mentioned in clause (a) knowingly makes, or is privy to the making of, any omission, with intent to defraud; or
(c) knowingly and with intent to injure any person, or knowingly and with intent to defraud, suppresses, defaces, alters or makes away with any document which it is his duty to preserve or produce; or
(d) where it is his official duty to make a declaration respecting any matter, knowingly makes a false declaration; or
(e) obtains for himself, or for any other person, any pension, allowance or other advantage or privilege by a statement which is false, and which he either knows or believes to be false, or does not believe to be true, or by making or using a false entry in any book or record, or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement,

shall, on conviction by Coast Guard Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

34. Offences in respect of property.—Any person subject to this Act who commits any of the following offences, that is to say,—

(a) commits theft of any property belonging to the Government or to any Coast Guard mess, or institution, or to any person subject to this Act; or
(b) dishonestly misappropriates or converts to his own use any such property; or
(c) commits criminal breach of trust in respect of any such property; or
(d) dishonestly receives or retains any such property in respect of which any of the offences under clauses (a), (b) and (c) has been committed, knowing or having reason to believe the commission of such offence; or
(e) wilfully destroys or damages any property of the Government entrusted to him; or

(f) does any other thing with intent to defraud or to cause wrongful gain to one person or wrongful loss to another person, shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to ten years of such less punishment as is in this Act mentioned.

35. Damage to property.—Any person subject to this Act, who commits any act which causes damage to, or destruction of, any property of the Government shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

36. Taking unauthorised goods on board.—Every officer or subordinate officer in command of any ship belonging to or in the service of the Coast Guard who receives on board or permits to be received on board such ship, any goods or merchandise whatsoever other than for the sole use of the ship or persons belonging to the ship, except goods and merchandise on board any ship may be ship-wrecked or in imminent danger either on the high seas or in some part, creek or harbour for the purpose of preserving them for their proper owners, or except such goods or merchandise as he may, at any time be ordered to take or receive on board by order of the Central Government or his superior officer, shall, on conviction by a Coast Guard Court, be liable to suffer dismissal from the Coast Guard or such less punishment as is in this Act mentioned.

36. Offences in respect of papers relating to vessel, craft or aircraft taken into custody.—(1) All the papers, charter parties, bills of lading, passports and other documents that shall be taken, seized or found on board any vessel, craft or aircraft taken into custody by the Coast Guard shall be duly preserved and the Commanding Officer or skipper shall send the same to his immediate superior.

(2) Every Commanding Officer or skipper who fails to send the documents as required under sub-section (1) shall, on conviction by a Coast Guard Court, be liable to suffer dismissal from the Coast Guard or such less punishment as is in this Act mentioned.

38. Offences in respect of vessel, craft or aircraft taken into custody.—Any person subject to this Act who, commits any of the following offences, that is to say,—

- (a) takes out without proper authority from any vessel, craft or aircraft taken into custody, any money or goods; or
- (b) pillages, beats or ill-treats persons on board the said vessel, craft or aircraft; or
- (c) breaks bulk on board any such vessel, craft or aircraft with intent dishonestly to misappropriate anything therein or belonging thereto,

shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

39. Unlawful taking of ransom.—Every Commanding Officer or skipper of a ship who,—

- (a) unlawfully agrees with any person for the ransoming of any vessel, craft, aircraft, goods or things taken into custody by the Coast Guard; or
- (b) in pursuance of any unlawful agreement for ransoming or otherwise by collusion actually quits or restores any vessel, craft, aircraft, goods or things taken into custody by the Coast Guard,

shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

40. Offences relating to Coast Guard Courts.—Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) being duly summoned or ordered to attend as a witness before a Coast Guard Court, wilfully without reasonable excuse, makes default in attending; or

(b) refuses to take an oath or make an affirmation legally required by a Coast Guard Court to be taken or made; or

(c) refuses to produce or deliver any document in his power or control legally required by a Coast Guard Court to be produced or delivered by him; or

(d) refuses, when a witness, to answer any question which he is by law bound to answer; or

(e) is guilty of contempt of a Coast Guard Court by using insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such Court,

shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

41. Escape from custody.—Any person subject to this Act who, being in lawful custody, escapes or attempts to escape, shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

42. Violation of the Act, rules and orders.—Any person subject to this Act who neglects to obey, or contravenes any provision of this Act or any rule or any order issued by any lawful authority under this Act, shall, if no other punishment is provided in this Act for such neglect or contravention, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in his Act mentioned.

43. False answers on enrolment.—Any person having become subject to this Act who is discovered to have made at the time of enrolment, a wilfully false answer to any question set forth in the prescribed form of enrolment which has been put to him by the enrolling officer before whom he appears for the purpose of being enrolled, shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

44. Offences against good order and discipline.—Any person subject to this Act who is guilty of any act or omission or disorder or neglect, which, though not specified in this Act, is prejudicial to good order and discipline of the Coast Guard shall, on conviction by a Coast Guard Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

45. Attempt.—Any person subject to this Act who attempts to commit any of the offences specified in sections 15 to 44 (both inclusive) and in such attempt does any act towards the commission of the offence shall, on conviction by a Coast Guard Court, where no express provision is made by this Act for the punishment of such attempt, be liable,—

(a) if the offence attempted to be committed is punishable with death, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

(b) if the offence attempted to be committed is punishable with imprisonment, to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

46. Abetment of offences that have been committed.—Any person subject to this Act who abets the commission of any of the offences specified in sections 15 to 44 (both inclusive), shall, on conviction by a Coast Guard Court, if the act abetted is committed in consequence of the abetment and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment provided for that offence or such less punishment as is in this Act mentioned.

47. Abetment of offence punishable with death and not committed.—Any person subject to this Act, who abets the commission of an offence punishable with death under section 17 shall, on conviction by a Coast Guard

Court, if that offence be not committed in consequence of that abetment, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

48. *Abetment of offences punishable with imprisonment and not committed.*—Any person subject to this Act who abets the commission of any of the offences specified in sections 15 to 44 (both inclusive) and punishable with imprisonment shall, on conviction by a Coast Guard Court, if that offence be not committed in consequence of the abetment, and no express provision so made by this Act for the punishment of such abetment be liable to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

49. *Civil offences.*—Subject to the provisions of section 50, any person subject to this Act who at any place, in, or beyond, India commits any civil offence shall be deemed to be guilty of an offence against this Act and, if charged therewith under this section shall be liable to be tried by a Coast Guard Court, and, on conviction, be punishable as follows, that is to say,—

- (a) if the offence is one which would be punishable under any law in force in India with death, he shall be liable to suffer any punishment, assigned for the offence, by the aforesaid law or such less punishment as is in this Act mentioned; and
- (b) in any other case, he shall be liable to suffer any punishment, assigned for the offence by the law in force in India, or imprisonment for a term which may extend to seven years, or such less punishment as is in this Act mentioned.

50. *Civil offences not triable by a Coast Guard Court.*—A person subject to this Act who commits an offence of murder or of culpable homicide not amounting to murder against, or of rape in relation to, a person not subject to this Act shall not be deemed to be guilty of an offence against this Act and shall not be tried by a Coast Guard Court, unless he commits any of the said offences,—

- (a) at any place outside India; or
- (b) at any place specified by the Central Government by notification in this behalf.

51. *Period of limitation for trial of offences under the Act.*—(1) No person unless he is an offender who has avoided apprehension or escaped arrest or committed the offence of desertion or of giving false entry on enrolment or the offence of mutiny shall be tried or punished in pursuance of this Act for any offence committed by him unless such trial commences within three years from the commission of such offence.

(2) No trial for an offence of desertion or of giving false entry on enrolment shall be commenced if the person in question, not being an officer, has subsequent to the commission of the offence served continuously in an exemplary manner for not less than three years in the Coast Guard.

52. *Trial, etc., of a person who ceases to be subject to the Act.*—(1) Where an offence under this Act had been committed by any person while subject to this Act, and such person has since the commission of the offence ceased to be subject to this Act, he may be taken into and kept in the Coast Guard custody, and tried and punished for such offence as if he had continued to be so subject.

(2) No such person shall be tried for an offence, unless his trial commences within six months after he has ceased to be subject to this Act:

Provided that nothing contained in this sub-section shall apply to the trial of any such person for an offence of mutiny or desertion.

CHAPTER V PUNISHMENTS

53. *Punishments awardable by Coast Guard Courts.*—(1) Punishments may be inflicted in respect of offences committed by persons subject to this Act and convicted

by Coast Guard Courts according to the scale following, that is to say,—

- (a) death;
- (b) imprisonment which may be for the term of life or any other lesser term;
- (c) dismissal from the Coast Guard;
- (d) detention in Coast Guard custody for a period not exceeding two years;
- (e) reduction to the ranks or to a lower rank in the case of sailors;
- (f) forfeiture of seniority of rank, forfeiture of all or part of the service for the purpose of promotion;
- (g) forfeiture of service for the purpose of increased pay, pension or any other prescribed purpose;
- (h) fine, in respect of civil offences;
- (i) mulcts of pay and allowances;
- (j) severe reprimand or reprimand except in the case of persons below the rank of an *Uttam Navik* or *Uttam Yantrik*.

(2) Each of the punishments specified in sub-section (1) shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

54. *Alternative punishments awardable by Coast Guard Courts.*—Subject to the provisions of this Act, a Coast Guard Court may, on convicting a person subject to this Act of any of the offences specified in sections 15 to 48 (both inclusive) award either the particular punishment with which the offence is stated in the said sections to be punishable, or in lieu thereof, any one of the punishments lower in the scale set out in section 53 regard being had to the nature and degree of the offence.

55. *Combination of punishments.*—Subject to the provisions of section 58, a sentence of a Coast Guard Court may award in addition to, or without any one other punishment, the punishment specified in clause (c) of sub-section (1) of section 53 and any one or more of the punishments specified in clauses (e) to (j) (both inclusive) of that sub-section.

56. *Punishments otherwise than by Coast Guard Courts.*—Punishments may also be inflicted in respect of offences committed by person subject to this Act without the intervention of a Coast Guard Court in the manner stated in section 57.

57. *Minor punishments.*—Subject to the provisions of section 58, a Commanding Officer or such other officer as is, with the consent of the Central Government, specified by the Director-General may in the prescribed manner, proceed against a person subject to this Act, otherwise than as an officer, who is charged with an offence under, this Act and award such person, to the extent prescribe one or more of the following punishments, that is to say,

- (a) imprisonment for a period not exceeding three months;
- (b) dismissal from the Coast Guard;
- (c) detention in Coast Guard custody for a period not exceeding three months;
- (d) reduction to the ranks or to a lower rank in the case of sailors;
- (e) fine, in respect of civil offences;
- (f) mulcts of pay and allowances;
- (g) deprivation of good conduct badges;
- (h) reprimand;
- (i) extra work and drill for a period not exceeding fourteen days in the case of persons below the rank of an *Uttam Navik* or *Uttam Yantrik*;
- (j) stoppage of leave for a period not exceeding sixty days;
- (k) admonition:

Provided that no punishment specified in clauses (a) to (1) (both inclusive) shall be inflicted,—

- (a) in the case of a subordinate officer, unless it is approved by an officer not below the rank of an Inspector-General; and
- (b) in the case of others, unless it is approved by an officer not below the rank of a Deputy Inspector-General.

58. *Provisions as to award of punishments.*—(1) The punishments that may be inflicted under this Act shall

is awarded in accordance with the provisions of this section.

(2) A sentence of imprisonment under this Act shall in all cases be accompanied by a sentence of dismissal.

(3) A sentence of imprisonment may be rigorous or simple or partly rigorous and partly simple.

(4) No officer shall be subject to detention for any offence under this Act.

(5) No subordinate officer shall be sentenced to detention except for desertion.

(6) A sentence of detention shall not be accompanied by a sentence of dismissal from the Coast Guard.

(7) A sentence of detention for a period exceeding fourteen days shall in all cases be accompanied by stoppage of pay and allowances during the period of detention.

CHAPTER VI

ARREST AND PROCEEDINGS BEFORE TRIAL

59. *Custody of offenders.*—(1) Any person subject to this Act who is charged with an offence may be taken into Coast Guard custody, under the order of any superior officer.

(2) Notwithstanding anything contained in sub-section (1), an officer may order into Coast Guard custody any other officer engaged in a quarrel, affray or disorder, through such other officer may be of a higher rank.

60. *Duty of Commanding Officer in regard to detention.*—(1) It shall be the duty of every Commanding Officer to take care that a person under his command when charged with an offence is not detained in custody for more than forty-eight hours after the committal of such person into custody is reported to him, without the charge being investigated, unless investigation within that period seems to him to be impracticable having regard to the public service.

(2) The case of every person being detained in custody beyond a period of forty-eight hours, and the reasons therefor, shall be reported by the Commanding Officer to the Deputy Inspector-General under whom he is serving or such other officer to whom an application may be made to convene a Coast Guard Court for the trial of the person charged.

(3) In reckoning the period of forty-eight hours specified in sub-section (1), Sundays and other public holidays shall be excluded.

(4) Subject to the provisions of this Act, the Central Government may make rules providing for the manner in which and the period for which any person subject to this Act may be taken into and detained in Coast Guard custody, pending the trial by any competent authority for any offence committed by him.

61. *Arrest by civil authorities.*—Whenever any person subject to this Act, who is accused of an offence under this Act, is within the jurisdiction of any Magistrate or police officer, such Magistrate or police officer shall aid to the apprehension and delivery to Coast Guard custody of such person upon receipt of a written application to that effect signed by his Commanding Officer or an officer authorised by the Commanding Officer in that behalf.

62. *Capture of deserters.*—(1) Whenever any person subject to this Act deserts, the Commanding Officer of the unit or ship to which he belongs, shall give information of the desertion to such civil authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he was a person for whose apprehension a warrant had been issued by a Magistrate, and shall deliver the deserter, when apprehended, into Coast Guard custody.

(2) Any police officer may arrest without warrant any person reasonably believed to be subject to this Act, and to be a deserter or to be travelling without authority, and

shall bring him without delay before the nearest Magistrate, to be dealt with according to law.

63. *Coast Guard police officers.*—(1) The Director-General or any prescribed officer may appoint persons for discharging the functions specified in sub-sections (2) and (3).

(2) The duties of a person appointed under sub-section (1), are to take charge of persons confined for any offence, to preserve good order and discipline and to prevent breaches of the same by persons serving in, or attached to, the Coast Guard.

(3) Notwithstanding anything contained in section 59, a person appointed under sub-section (1) may, at any time, arrest and detain for trial any person subject to the Act who commits, or is charged with, an offence, and may also carry into effect any punishment to be inflicted in pursuance of a sentence awarded by a Coast Guard Court or by an officer exercising authority under section 57 but shall not inflict any punishment on his own authority:

Provided that no officer shall be so arrested or detained otherwise than on the order of another officer.

CHAPTER VII

COAST GUARD COURTS

64. *Power to convene a Coast Guard Court.*—(1) A Coast Guard Court may be convened by the Central Government or the Director-General or by any officer empowered in this behalf by warrant of the Director-General (hereafter in this Act referred to as the convening authority).

(2) A warrant issued under sub-section (1) may contain such restrictions, reservations or conditions as the Director-General may think fit.

65. *Composition of Coast Guard Court.*—(1) A Coast Guard Court shall consist of not less than five officers each of whom has held the post of Assistant Commandant for not less than three years.

Explanation.—For the purposes of this sub-section "Assistant Commandant" includes any post of a higher rank and any post declared by the Central Government by notification to be an equivalent post as also any post higher in rank than the post so declared.

(2) At every Coast Guard Court, the senior member shall be the presiding officer.

(3) A Coast Guard Court shall not be duly constituted unless the members thereof are drawn from at least two ships.

(4) No Coast Guard Court for the trial of an officer shall be duly constituted unless the presiding officer and at least two members of the court are of the same rank as the accused or of a higher rank.

66. *Dissolution of a Coast Guard Court.*—(1) If a Coast Guard Court after the commencement of a trial is reduced below the minimum number of officers required by this Act, it shall be dissolved.

(2) If, on account of the illness of the Law Officer or of the accused before the finding, it is impossible to continue the trial, a Coast Guard Court shall be dissolved.

(3) The convening authority of a Coast Guard Court may dissolve the same if it considers that the exigencies of the service or necessities of discipline render it impossible or inexpedient to continue the said Coast Guard Court.

(4) Where a Coast Guard Court is dissolved under this section, the accused may be tried again.

67. *Powers of a Coast Guard Court.*—Every Coast Guard Court shall have the power to try any person subject to this Act for any offence punishable thereunder and to pass any sentence authorised thereby.

68. *Prohibition of second trial.*—(1) When any person subject to this Act has been acquitted or convicted of an offence by a Coast Guard Court or by a criminal court or has been dealt with under section 57, he shall not be liable to be tried again for the same offence by a Coast Guard Court or dealt with under the said section.

(2) When any person, subject to this Act, has been acquitted or convicted of an offence by a Coast Guard Court or has been dealt with under section 57, he shall not be liable to be tried again by a criminal court for the same offence or on the same facts.

69. Application of Act during term of sentence.—(1) When a person subject to this Act is sentenced by a Coast Guard Court to imprisonment, this Act shall apply to him during the term of his sentence, though he is dismissed from the Coast Guard, or has otherwise ceased to be subject to this Act, and he may be kept, removed, imprisoned and punished as if he continued to be subject to this Act.

(2) When a person subject to this Act is sentenced by a Coast Guard Court to death, this Act shall apply to him till the sentence is carried out.

70. Place of trial.—A Coast Guard Court may be held on shore or afloat.

71. Choice between criminal court and Coast Guard Court.—When a criminal court and a Coast Guard Court have each jurisdiction in respect of an offence, it shall be in the discretion of the Director-General or the Inspector-General or the Deputy Inspector-General within whose command the accused person is serving or such other officer as may be prescribed, to decide before which court the proceedings shall be instituted, and, if that officer decides that they shall be instituted before a Coast Guard Court, to direct that the accused person shall be detained in Coast Guard custody.

72. Power of criminal court to require delivery of an offender.—(1) When a criminal court having jurisdiction is of opinion that proceedings shall be instituted before itself in respect of any alleged offence, it may, by written notice, require the officer referred to in section 71 at his option either to deliver over the offender to the nearest Magistrate to be proceeded against according to law, or to postpone proceedings, pending a reference to the Central Government.

(2) In every such case, the said officer shall either deliver over the offender in compliance with the requisition, or shall forthwith refer the question as to the court before which the proceedings are to be instituted, for the determination of the Central Government whose order upon such reference shall be final.

CHAPTER VIII

PROCEDURE OF COAST GUARD COURTS

73. Law Officer.—Every Coast Guard Court shall be attended by a Law Officer, or if no such officer is available, an officer approved by the Chief Law Officer or a Law Officer.

74. Challenges.—(1) At all trials by a Coast Guard Court, as soon as the court is assembled, the names of the presiding officer and members shall be read over to the accused, who shall thereupon be asked whether he objects to being tried by any officer sitting on the court.

(2) If the accused objects to such officer, his objection and also the reply thereto of the officer objected to shall be heard and recorded, and the remaining officers of the court shall, in the absence of the challenged officer decide on the objection.

(3) If the objection is allowed by one-half or more of the votes of the members entitled to vote, the objection shall be allowed, and the member objected to shall retire, and his vacancy may be filled in the prescribed manner, by another officer subject to the same right of the accused to object.

(4) Where no challenge is made, or when a challenge has been made and disallowed, or the place of every officer successfully challenged has been filled by another officer to whom no objections is made or allowed, the court shall proceed with the trial.

75. Oaths of members, law officer and witness.—(1) An oath or affirmation in the prescribed manner shall be administered to every member of a Coast Guard Court and to the Law Officer or, as the case may be, the officer approved under section 73, before the commencement

of the trial.

(2) Every officer giving evidence before a Coast Guard Court shall be examined after being duly sworn or affirmed in the prescribed form.

(3) The provisions of sub-section (2) shall not apply where the witness is a child under twelve years of age and the Coast Guard Court is of opinion that though the witness understands the duty of speaking the truth, he does not understand the nature of an oath or affirmation.

76. Voting by members.—(1) Subject to the provisions of sub-sections (2) and (3), every decision of a Coast Guard Court shall be passed by an absolute majority of votes; and where there is an equality of votes or either the finding or the sentence, the decision shall be in favour of the accused.

(2) No sentence of death shall be passed by a Coast Guard Court without the concurrence of at least two-thirds of the members of the court.

(3) In matters, other than a challenge or the finding or sentence, the presiding officer shall have a casting vote.

77. General rule as to evidence.—The Indian Evidence Act, 1872 (1 of 1872), shall, subject to the provisions of this Act, apply to all proceedings before a Coast Guard Court.

78. Judicial notice.—A Coast Guard Court may take judicial notice of any matter within the general knowledge of the members as officers of the Coast Guard.

79. Summoning of witnesses.—(1) The convening authority, the presiding officer of a Coast Guard Court, the Law Officer or, as the case may be, the officer approved under section 73 or the Commanding Officer of the accused person may, by summons under his hand, require the attendance, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing.

(2) In the case of a witness who is subject to this Act, the summons shall be sent to his Commanding Officer and such officer shall serve it upon him accordingly.

(3) In the case of any other witness, the summons shall be sent to the Magistrate within whose jurisdiction he may be, or resides, and such Magistrate shall give effect to the summons as if the witness were required in the court of such a Magistrate.

(4) When a witness is required to produce any particular document or other thing in his possession or power, the summons shall describe it with reasonable precision.

80. Documents exempted from production.—(1) Nothing in section 79 shall be deemed to affect the operation of sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), or to apply to any letter, post card, telegram or other document in the custody of the postal or telegraph authorities.

(2) If any document in such custody is, in the opinion of any Chief Judicial Magistrate, Chief Metropolitan Magistrate, Court of Session or High Court, wanted for the purpose of any Coast Guard Court, such Magistrate, or Court may require the postal or telegraph authorities, as the case may be, to deliver such document to such person as such Magistrate or Court may direct.

(3) If any such document is, in the opinion of any other Magistrate or of any Commissioner of Police or District Superintendent of Police wanted for any such purpose, he may require the postal or telegraph authorities, as the case may be, to cause such search to be made for, and to detain such document pending the orders of any such Chief Judicial Magistrate, Chief Metropolitan Magistrate, Court of Session or High Court.

81. Commissions for examination of witnesses.—(1) Whenever, in the course of a trial by a Coast Guard Court, it appears to the court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, in the circumstances of the case, would be unreasonable, the court may address the Chief Law Officer in order

that a commission to take the evidence of such witness may be issued.

(2) The Chief Law Officer may then, if he thinks necessary, issue a commission to any Metropolitan Magistrate or Judicial Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

(3) The Magistrate to whom the commission is issued, or, if he is the Chief Metropolitan Magistrate or Chief Judicial Magistrate, he or such Metropolitan Magistrate or Judicial Magistrate of the first class as he appoints in this behalf shall proceed to the place where the witness is, or shall summon the witness before him and shall take down his evidence in the same manner, and may, for this purpose, exercise the same powers, as in the trials of warrant-cases under the Code of Criminal Procedure, 1973 (2 of 1974).

(4) When the witness resides in any place outside India, the commission may be issued in the form and manner specified in sub-section (3) of section 285 of the Code of Criminal Procedure, 1973 (2 of 1974).

82. Examination of a witness on commission.—(1) The prosecutor and the accused person in any case in which a commission is issued under section 81 may respectively forward any interrogatories in writing which the court may think relevant to the issue, and the Magistrate executing the commission shall examine the witness upon such interrogatories.

(2) The prosecutor and the accused person may appear before such Magistrate by counsel, or except in the case of an accused person in custody, in person, and may examine cross-examine and re-examine, as the case may be, the said witness.

(3) After a commission issued under section 81 has been duly executed, it shall be returned together with the deposition of the witness examined thereunder to the Chief Law Officer.

(4) On receipt of a commission, and deposition returned under sub-section (3), the Chief Law Officer shall forward the same to the Coast Guard Court at whose instance the commission was issued or, if such court has been dissolved, to any other court convened for the trial of the accused person; and the commission, the return thereto and the deposition shall be open to inspection by the prosecutor and the accused person, and may, subject to all just exceptions, be read in evidence in the case by either the prosecutor or the accused, and shall form part of the proceedings of the court.

(5) In every case in which a commission is issued under section 81, the trial may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

83. Alternative findings.—If an accused is charged before a Coast Guard Court with one offence and it appears in evidence that he committed a different offence, he may be convicted of the offence which he is shown to have committed although he was not charged with it.

84. Presumption as to signatures.—In any proceeding under this Act, any application, certificate, warrant, reply or other document purporting to be signed by an officer in the service of the Government shall, on production, be presumed to have been duly signed by the person by whom and in the character in which it purports to have been signed, until the contrary is shown.

85. Enrolment paper.—(1) Any enrolment paper purporting to be signed by an enrolling officer shall, in proceedings under this Act, be evidence of the person enrolled having given the answers to questions which he is therein represented as having given.

(2) The enrolment of such person may be proved by the production of the original or a copy of his enrolment paper purporting to be certified to be a true copy by the officer having the custody of the enrolment paper.

85. Presumption as to certain documents.—(1) A letter, return or other document respecting the service of any person in, or the dismissal or discharge of any person from, any unit or ship of the Coast Guard, or respecting

the circumstances of any person not having served in, or belonged to, any unit or ship, if purporting to be signed by or on behalf of the Central Government or the Director-General, or by any prescribed officer, shall be evidence of the facts stated in such letter, return or other document.

(2) A Coast Guard List or Gazette purporting to be published by authority shall be evidence of the status and rank of the officers therein mentioned, and of any appointment held by them and of the unit or ship of the Coast Guard to which they belong.

(3) Where a record is made in the books of a ship in pursuance of this Act or any rule or otherwise in the discharge of official duties, and purports to be signed by the Commanding Officer or by the officer whose duty it is to make such record, such record shall be evidence of the facts therein stated.

(4) A copy of any record in the books of a ship purporting to be certified to be a true copy by the officer having custody of such books shall be evidence of such record.

(5) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of any officer or other person subject to this Act or any unit or ship of the Coast Guard, or has been apprehended by such officer or person, a certificate purporting to be signed by such officer, or by the Commanding Officer of the unit or ship to which such person belongs, as the case may be, and stating the fact, date and place of such surrender or apprehension, and the manner in which he was dressed shall be evidence of the matters so stated.

(6) Where any person subject to this Act is being tried on a charge of desertion or of improperly leaving a ship or of absence without leave and such person has surrendered himself into the custody of, or has been apprehended by, a police officer not below the rank of an officer in charge of a police station, a certificate purporting to be signed by such police officer and stating the fact, date and place of such surrender or apprehension and the manner in which he was dressed shall be evidence of the matters so stated.

(7) Any document purporting to be a report under the hand of a Chemical Examiner or Assistant Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis and report, may be used as evidence in any proceeding under this Act.

Explanation.—In this section, the term "books of a ship" shall include any official book, document or list purporting to contain the name or names of persons appointed to the ship.

87. Evidence of previous convictions and general character.—(1) When any person subject to this Act has been convicted by a Coast Guard Court of any offence, such court may inquire into, and receive, and record evidence of any previous convictions of such person, either by a Coast Guard Court or by a criminal court, or any previous award of punishment under section 57, and may further inquire into and record the general character of such person and such other matters as may be prescribed.

(2) Evidence received under this section may be either oral, or in the shape of entries in, or certified extracts from, books of Coast Guard Courts or other official records; and it shall not be necessary to give notice before trial to the person tried, that evidence as to his previous convictions or character will be received.

88. Lunacy of accused.—(1) Whenever, in the course of a trial by a Coast Guard Court, it appears to the court that the person charged is by reason of unsoundness of mind incapable of making his defence, or that he committed the act alleged but was by reason of unsoundness of mind incapable of knowing the nature of the act or knowing that it was wrong or contrary to law, the court shall record a finding accordingly.

(2) The presiding officer of the Coast Guard Court shall forthwith report the case to the convening authority

(3) The convening authority to whom the finding of a Coast Guard Court is reported under sub-section (2) shall order the accused person to be kept in custody in the prescribed manner and shall report the case for the orders of the Central Government.

(4) On receipt of a report under sub-section (3), the Central Government may order the accused person to be detained in a lunatic asylum or other suitable place of safe custody.

89. *Subsequent fitness of lunatic accused for trial.*—Where any accused person, having been found by reason of unsoundness of mind to be incapable of making his defence, is in custody or under detention under section 88, any officer prescribed in this behalf, may,—

(a) if such person is in custody under sub-section (3) of section 88, on the report of a medical officer that he is capable of making his defence, or

(b) if such person is detained in jail under sub-section (4) of section 88, on a certificate of the Inspector-General of Prisons, and if such person is detained in a lunatic asylum under the said sub-section, on a certificate of any two or more of the visitors of such asylum and if he is detained in any other place under that sub-section, on a certificate of the prescribed authority, that he is capable of making his defence,

take steps to have such person tried by the same or another Coast Guard Court for the offence with which he was originally charged, or, if the offence is a civil offence, by a criminal court.

90. *Transmission to Central Government of orders under section 89.*—A copy of every order made by an officer under section 89 for the trial of the accused shall forthwith be sent to the Central Government.

91. *Release of lunatic accused.*—Where any person is in custody under sub-section (3) of section 88 or under detention under sub-section (4) of that section,—

(a) if such person is in custody under the said sub-section (3), on the report of the medical officer, or

(b) if such person is detained under the said sub-section (4), on a certificate from any of the authorities mentioned in clause (b) of section 89 that in the judgment of such officer or authority such person may be released without danger of his doing injury to himself or to any other person,

the Central Government may order that such person be released or detained in custody, or transferred to a public lunatic asylum if he has not already been sent to such asylum.

92. *Delivery of lunatic accused to relatives.*—Where any relative or friend of any person who is in custody under sub-section (3) of section 88 or under detention under sub-section (4) of that section desires that he should be delivered to his care and custody, the Central Government may, upon application by such relative or friend and, on his giving security to the satisfaction of that Government that the person delivered shall be properly taken care of, and, prevented from doing injury to himself or to any other person, and be produced for the inspection of such officer, and at such times and places, as the Central Government may direct, order such person to be delivered to such relative or friend.

93. *Order for custody and disposal of property pending trial.*—When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before a Coast Guard Court during a trial, the court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the trial, and if the property is subject to speedy or natural decay may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

94. *Order for disposal of property regarding which offence is committed.*—(1) After the conclusion of a trial before a Coast Guard Court, an officer not below the rank of a Deputy Inspector-General within whose command the trial was held, may make such order as he thinks fit for the disposal by destruction, confiscation,

delivery to any person claiming to be entitled to possession thereof, or otherwise, of any property or document produced before the court or in its custody, or regarding which any offence appears to have been committed or which has been used for the commission of any offence.

(2) Where any order has been made under sub-section (1), in respect of property regarding which an offence appears to have been committed, a copy of such order signed and certified by the authority making the same may, whether the trial was held within India or not, be sent to a Magistrate within whose jurisdiction such property for the time being is situated, and such Magistrate shall thereupon cause the order to be carried out into effect as if it were an order passed by him under the provisions of the Code of Criminal Procedure, 1973 (2 of 1974).

(3) In this section, the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any person, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange whether immediately or otherwise.

95. *Powers of Coast Guard Court in relation to proceedings under this Act.*—Any trial by a Coast Guard Court under the provisions of this Act shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860) and the Coast Guard Court shall be deemed to be a court within the meaning of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974).

CHAPTER IX

EXECUTION AND SUSPENSION OF SENTENCES

96. *Form of sentence of death.*—In awarding a sentence of death, a Coast Guard Court shall, in its discretion, direct that the offender shall suffer death by being hanged by the neck until he be dead or shall suffer death by being shot to death.

97. *Interim custody until execution of sentence of death.*—A person sentenced to death may be detained in Coast Guard custody or may be removed to a civil prison to be kept in custody until further orders are received from the Central Government, the Director-General or the convening authority of the Coast Guard Court by which he was sentenced to death or other prescribed officer and the order of the Central Government, the Director-General or the convening authority or such officer shall be sufficient warrant for detaining the person in custody.

98. *Execution of sentence of death.*—(1) When a sentence of death is to be executed, the Director-General or the convening authority or the prescribed officer shall give directions as to the time, place and manner in which such sentence is to be carried out and the order of such officer or authority in the prescribed form shall be sufficient warrant for the execution of such sentence.

(2) There shall be attached to the prescribed form, an order of the Central Government certifying the confirmation of the sentence by the Central Government.

99. *Commencement of sentence of imprisonment or detention.*—Whenever any person is sentenced under this Act to imprisonment or detention, the term of the sentence shall be reckoned to commence on the date on which the sentence was awarded.

100. *Execution of sentence of imprisonment.*—(1) Whenever any sentence of imprisonment is passed under this Act or whenever any sentence of death is commuted to imprisonment, the presiding officer of the Coast Guard Court which passed the sentence or such other officer as may be prescribed shall direct that the sentence shall be carried out by confinement in a civil prison.

(2) When a direction has been made under sub-section (1), the Commanding Officer of the person under sentence or such other officer as may be prescribed shall forward a warrant in the prescribed form to the officer in charge of the prison in which such person is to be confined and shall arrange for his despatch to such prison with the warrant.

101. Temporary custody of offender.—Where a sentence of imprisonment is directed to be undergone in a civil prison, the offender may be kept in Coast Guard custody or in any other fit place, till such time as it is possible to send him to a civil prison.

102. Conveyance of prisoner from place to place.—A person under sentence of imprisonment may during his conveyance from place to place, or when on board a ship, aircraft or otherwise, be subject to such restraint as is necessary for his safe conduct and removal.

103. Communication of certain orders to prison officers.—Whenever an order is duly made under this Act setting aside or varying any sentence, order or warrant under which any person is confined in a civil prison, a warrant in accordance with such order shall be forwarded by the officer making the order or his staff officer or such person as may be prescribed, to the officer in charge of the prison in which such person is confined.

104. Execution of sentence of fine.—When a sentence of fine is imposed by a Coast Guard Court under section 53, a copy of such sentence signed and certified by the presiding officer of the court may be sent to any Magistrate in India and such Magistrate shall thereupon cause the fine to be recovered in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) as if it were a sentence of fine imposed by such Magistrate.

105. Informality or error in the order or warrant.—Whenever any person is sentenced to imprisonment under this Act, and is undergoing the sentence in any place or manner in which he might be confined under a lawful order or warrant in pursuance of this Act, the confinement of such person shall not be deemed to be illegal only by reason of any informality or error in, or as respects the order, warrant or other document, or the authority by which, or in pursuance whereof such person was brought into, or is confined in any such place, and any such order, warrant or document may be amended accordingly.

106. Imprisonment or detention of offender already under sentence.—Whenever a sentence is passed by a Coast Guard Court on a person already under sentence either of imprisonment or detention passed on him under this Act for a former offence, the court may award a sentence of imprisonment or detention for the offence for which he is under trial to commence at the expiration of the sentence of imprisonment or detention to which he has been previously sentenced:

Provided that so much of any term of detention imposed on a person by a sentence in pursuance of this section as will prolong the total term of detention beyond two years shall be deemed to be remitted.

107. Suspension of sentence of imprisonment or detention.—(1) Where a person subject to this Act is sentenced to imprisonment or detention, the Central Government, the Director-General, the Commanding Officer imposing the sentence or any prescribed officer may suspend the sentence whether or not the offender has already been committed to prison or to Coast Guard custody.

(2) The authority or officer specified in sub-section (1) may, in the case of an offender so sentenced, direct that until the orders of such authority or officer have been obtained, the offender shall not be committed to prison or to Coast Guard custody.

(3) The powers conferred by sub-sections (1) and (2) may be exercised in the case of any such sentence which has been reduced or commuted.

108. Release on suspension.—Where a sentence is suspended under section 107, the offender shall forthwith be released from custody.

109. Computation of period of suspension.—Any period during which the sentence is under suspension shall be reckoned as part of the term of such sentence.

110. Order after suspension.—The authority or officer specified in section 107 may, at any time while a sentence is suspended, order—

- that the offender be committed to undergo the unexpired portion of the sentence; or
- that the sentence be remitted.

111. Reconsideration of case after suspension.—(1) Where a sentence has been suspended, the case may at any time, and shall at intervals of not more than four months, be reconsidered by the authority or officer specified in section 107, or by any officer not below the rank of a Deputy Inspector-General duly authorised by the authority or officer specified in section 107.

(2) Where on such reconsideration by the officer so authorised it appears to him that the conduct of offender since his conviction has been such as to justify a remission of the sentence, he shall refer the matter to the authority or officer specified in section 107.

112. Fresh sentence after suspension.—Where an offender, while a sentence on him is suspended under this Act, is sentenced for any other offence, then—

- if the further sentence is also suspended under this Act, the sentence shall run concurrently;
- if the further sentence is for a period of three months or more and is not suspended under this Act, the offender shall also be committed to prison or Coast Guard custody for the unexpired portion of the previous sentence, but both sentences shall run concurrently; and
- if the further sentence is for a period of less than three months and is not suspended under this Act, the offender shall be so committed on that sentence only, and the previous sentence shall, subject to any order which may be passed under section 110 or section 111 continue to be suspended.

113. Scope of power of suspension.—The powers conferred by sections 107 and 110 shall be in addition to, and not in derogation of, the power of mitigation, remission and commutation.

114. Effect of suspension and remission on dismissal.—(1) Where in addition to any other sentence, the punishment of dismissal has been awarded under this Act and such other sentence is suspended under section 107, then such dismissal shall not take effect until so ordered by the authority or officer specified in section 107.

(2) If such other sentence is remitted under section 110, the punishment of dismissal shall also be remitted.

CHAPTER X

CHIEF LAW OFFICER AND LAW OFFICERS

115. Appointment of Chief Law Officer and Law Officers.—(1) There shall be appointed by the Central Government, a Chief Law Officer and as many Law Officers as the Central Government may deem necessary.

(2) A person shall not be qualified for appointment as Chief Law Officer unless he—

- is a citizen of India; and
- has for at least ten years held a judicial office in the territory of India; or
- has for at least ten years been an advocate of a High Court or two or more such Courts in succession:

Provided that the Central Government may, if it is of opinion that it is necessary or expedient so to do in the exigencies of service, relax, for reasons to be recorded in writing, the qualification specified in clause (b) or clause (c) in respect of any person.

(3) A person shall not be qualified for appointment as Law Officer unless he—

- is a citizen of India, and
- is qualified for enrolment as an advocate of a High Court.

Explanation.—For the purposes of this section,—

- in computing the period during which a person has been an advocate of a High Court, there shall be included any period during which the person has held a judicial office after he became an advocate;
- the expression "judicial office" shall be deemed to include the post of Law Officer.

116. Functions of Chief Law Officer.—(1) It shall be the duty of the Chief Law Officer to perform such duties of a legal and judicial character pertaining to the Coast Guard as may, from time to time, be referred or assigned

to him by the Central Government or the Director-General, and to discharge the functions conferred on him by or under this Act.

(2) The functions of the Chief Law Officer shall, in his absence or otherwise, be performed by such Law Officer as may be designated in this behalf by the Director-General.

CHAPTER XI

JUDICIAL REVIEW OF PROCEEDINGS OF COAST GUARD COURT;

117. *Judicial review by the Chief Law Officer.*—(1) All proceedings of trials by Coast Guard Courts shall be reviewed by the Chief Law Officer either on his own motion or on application made to him within the prescribed time by any person aggrieved by any sentence or finding, and the Chief Law Officer shall transmit the report of such review together with such recommendations as may appear to him just and proper to the Director-General for his consideration and for such action as the Director-General may think fit.

(2) Where any person aggrieved has made an application under sub-section (1), the Chief Law Officer may, if the circumstances of the case so require, give him an opportunity of being heard either in person or through a legal practitioner or an officer of the Coast Guard.

118. *Consideration by the Director-General.*—(1) On receipt of the report and recommendations, if any, under section 117, the Director-General shall in all cases of sentences of death, and in all cases where the Coast Guard Court is convened by the Central Government, and may, in other cases, transmit the proceedings and the report to the Central Government together with such recommendations as he may deem fit to make.

(2) Nothing in section 117 or this section shall authorise the Chief Law Officer or the Director-General to make any recommendation for setting aside, or the Central Government to set aside, an order of acquittal passed under this Act.

CHAPTER XII

MODIFICATION OF FINDINGS AND SENTENCES, HARDONS, COMMUTATION AND REMISSION OF SENTENCES

119. *Petitions to Central Government or Director-General against findings and sentences.*—Any person subject to this Act who considers himself aggrieved by a finding or sentence of any Coast Guard Court may present a petition to the Central Government or to the Director-General, and the Central Government or the Director-General, as the case may be, may pass such orders thereon as it or he may think fit.

120. *Powers of Central Government and Director-General in respect of findings and sentences.*—(1) Where any person is tried under the provisions of this Act, the Central Government or the Director-General may, in the case of a conviction,—

- set aside the finding and sentence and acquit or discharge the accused or order him to be re-tried; or
- alter the finding without modifying the sentence if such sentence may be legally passed on the altered finding; or
- with or without altering the finding, reduce the sentence or commute the punishment awarded for any punishment inferior in scale; or
- either with or without conditions, pardon the person or remit the whole or any part of the punishment awarded; or
- with or without conditions release the person on parole;

Provided that a sentence of imprisonment shall not be commuted for a sentence of detention for a term exceeding the term of imprisonment awarded:

Provided further that nothing in this sub-section shall authorise the Central Government or the Director-General to enhance the sentence.

(2) Any sentence modified under the provisions of sub-section (1) shall be carried into execution as if it had been originally passed.

(3) If any condition on which a person has been pardoned or has been released on parole or a punish-

ment has been remitted is in the opinion of the authority which granted the pardon, release or remission not fulfilled, such authority may cancel the pardon or release or remission and thereupon the sentence awarded shall be carried into effect as if such pardon, release or remission had not been granted:

Provided that in the case of a person sentenced to imprisonment or detention, such person shall undergo only the unexpired portion of the sentence.

CHAPTER XIII

MISCELLANEOUS

121. *Powers and duties conferrable and imposable on members of the Coast Guard.*—(1) The Central Government may by general or special order published in the Official Gazette, direct that subject to such conditions and limitations, and within the local limits of such inland area adjoining the coast of India, as may be specified in the order, any member of the Coast Guard may,—

- for the purpose of prevention of any offence punishable under the Passport (Entry into India) Act, 1920 (34 of 1920), in the Emigration Act, 1922 (7 of 1922), the Registration of Foreigners Act, 1939 (16 of 1939), the Foreigners Act, 1946 (31 of 1946), the Merchant Shipping Act, 1958 (44 of 1958) the Customs Act, 1962 (52 of 1962), the Passports Act, 1967, (15 of 1967), the Foreign Exchange Regulation Act, 1973, (46 of 1973) or the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976), or of any cognizable offence punishable under any other Central Act; or
- for the purpose of apprehending any person who has committed any offence referred to in clause (i),

exercise or discharge such of the powers or duties under that Act or any other Central Act as may be specified in the said order, being the powers and duties which, in the opinion of the Central Government, an officer of the corresponding or lower rank is by that or such other Act empowered to exercise or discharge for the said purposes.

(2) The Central Government may, by general or special order published in the Official Gazette, direct, with the concurrence of the State Government concerned, that any of the powers or duties which may be exercised or discharged under a State Act by a police officer may, subject to such conditions and limitations, and within the local limits of such inland area adjoining the coast of India, as may be specified in the order, be exercised or discharged by a member of the Coast Guard who, in the opinion of the Central Government, holds a corresponding or higher rank.

(3) The Central Government may, by general or special order published in the Official Gazette, direct that, subject to such conditions and limitations, and within the local limits of such area in any maritime zone of India, as may be specified in the order, any member of the Coast Guard may,—

- for the purpose of prevention of any offence punishable under any enactment which extends for the time being to such area; or
- for the purpose of apprehending any person whose has committed any offence referred to in clause (i),

exercise or discharge such of the powers or duties under that enactment, as may be specified in the said order, being the powers and duties which, in the opinion of the Central Government, an officer of the corresponding or lower rank is by that enactment empowered to exercise or discharge for the said purposes.

(4) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty day which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter

have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

122. Protection for acts of members of the Coast Guard.—(1) In any suit or proceeding against any member of the Coast Guard for any act done by him in pursuance of a warrant or order of a competent authority, it shall be lawful for him to plead that such act was done by him under the authority of such warrant or order.

(2) Any such plea may be proved by the production of the warrant or order directing the act, and if it is so proved, the member of the Coast Guard shall thereupon be discharged from liability in respect of the act so done by him, notwithstanding any defect in the jurisdiction of the authority which issued such warrant or order.

(3) Notwithstanding anything contained in any other law for the time being in force, any legal proceeding (whether civil or criminal) which may lawfully be brought against any member of the Coast Guard for anything done or intended to be done under the powers conferred by, or in pursuance of any provision of this Act or the rules, shall be commenced within three months after the act complained of was committed and not otherwise, and notice in writing of such proceeding and of the cause thereof shall be given to the defendant or his superior officer at least one month before the commencement of such proceeding.

123. Power to make rules.—(1) The Central Government may, by notification, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for,—

- (a) the constitution, governance, command and discipline of the Coast Guard;
- (b) the enrolment of persons to the Coast Guard and the recruitment of other members of the Coast Guard;
- (c) the conditions of service (including service privileges and deductions from pay and allowances) of members of the Coast Guard;
- (d) the rank, precedence, powers of command and authority of the officers, subordinate officers and other enrolled persons;
- (e) the removal, retirement, release or discharge from the service of officers, subordinate officers and other enrolled persons;
- (f) the purposes and other matters required to be prescribed under section 13;
- (g) the additional matters in respect of which the Coast Guard may undertake measures in the performance of its functions;
- (h) the convening, constitution, adjournment, dissolution and sittings of Coast Guard Courts, the procedure to be observed in trials by such courts, the persons by whom an accused may be defended in such trials and the appearance of such persons thereat;
- (i) the forms of orders to be made under the provisions of this Act relating to Coast Guard Courts and the awards and infliction of death, imprisonment and detention;
- (j) the carrying into effect of sentences of Coast Guard Courts;
- (k) any matter necessary for the purpose of carrying this Act into execution, as far as it relates to the investigation, arrest, custody, trial and punishment of offences triable or punishable under this Act;
- (l) the procedure relating to the exercise of powers under section 120;
- (m) the ceremonies to be observed and marks of respect to be paid in the Coast Guard;
- (n) any other matter which is to be, or may be prescribed or in respect of which this Act makes no provision or makes insufficient provision and provision is, in the opinion of the Central Government, necessary for the proper implementation of this Act.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of

Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Assented to on 18-8-1978.

THE PASSPORTS (AMENDMENT) ACT, 1978

ACT No. 31 of 1978

AN

ACT

to Amend the Passports Act, 1967

Be it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Passport (Amendment) Act, 1978.

2. *Amendment of section 5.*—In section 5 of the Passports Act, 1967 (15 of 1967) (hereinafter referred to as the principal Act),—

(a) for sub-section (1), the following sub-sections shall be substituted, namely:—

(1) Any application for the issue of a passport under this Act for visiting such foreign country or countries (not being a named foreign country) as may be specified in the application may be made to the passport authority and shall be accompanied by a fee of rupees fifty.

Explanation.—In this section, “named foreign country” means such foreign country as the Central Government may, by rules made under this Act, specify in this behalf.

(1A) An application for the issue of—

(i) a passport under this Act for visiting a named foreign country; or

(ii) a travel document under this Act, for visiting such foreign country or countries (including a named foreign country) as may be specified in the application or for an endorsement on the passport or travel document referred to in this section,

may be made to the passport authority and shall be accompanied by such fee (if any) not exceeding rupees fifty, as may be prescribed.

(1B) Every application under this section shall be in such form and contain such particulars as may be prescribed.

(b) in sub-section (2), in the opening paragraph, after the words “an application”, the words “under this section” shall be inserted.

3. *Amendment of section 13.*—In section 13 of the principal Act, in sub-section (2), for the words and figures “section 16 of the Code of Criminal Procedure, 1898 (5 of 1898)”, the words and figures “section 57 of the Code of Criminal Procedure, 1973 (2 of 1974)” shall be substituted.

4. *Amendment of section 14.*—In section 14 of the principal Act, in sub-section (2), for the words and figures “Code of Criminal Procedure, 1898 (5 of 1898)”, the words and figures “Code of Criminal Procedure, 1973 (2 of 1974)” shall be substituted.

5. *Amendment of section 23.*—In section 23 of the principal Act,—

(a) the words and figures “the Foreign Exchange Regulation Act, 1947 (7 of 1947)” shall be omitted;

(b) after the words, brackets and figures “the Foreigners Law (Application and Amendment) Act, 1962 (42 of 1962)”, the words and figures “the Foreign Exchange Regulation Act, 1973 (46 of 1963)” shall be inserted.

6. *Amendment of section 24.*—In section 24 of the principal Act,—

(a) in sub-section (2),—

(i) after clause (e), the following clause shall be inserted, namely:—

“(ee) specifying the foreign country for the purposes of the *Explanation* to sub-section (1) of section 5;”

(ii) in clause (f), for the words “issue or renewal of a passport”, the words, brackets, figures and letter “issue or renewal of a passport for visiting a foreign country referred to in sub-section (1A) of section 5” shall be substituted;

(b) in sub-section (3), for the words “in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following”, the words “in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid” shall be substituted.

7. *Transitional provision.*—Where any application for the issue or renewal of a passport is made to the passport authority on or after the date of introduction of the *Passports (Amendment) Bill, 1978* in Parliament but before the date on which the Bill as passed by the Houses of Parliament receives the assent of the President, the applicant shall be required as from the commencement of this Act to pay in respect of such application the difference between the fee payable under section 5 of the principal Act, as amended by this Act and the amount already paid by him towards fee under the said section as it stood immediately before such amendment.

Assented to on 18-8-1978.

THE INDIAN EXPLOSIVES (AMENDMENT) ACT, 1977

ACT NO. 32 OF 1978

AN
ACT

for further to amend the *Indian Explosives Act, 1884*.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the *Indian Explosives (Amendment) Act, 1978*.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of long title and preamble.*—In the long title of, and the preamble to, the *Indian Explosives Act, 1884* (4 of 1884) (hereinafter referred to as the principal Act), for the words “transport and importation”, the words “transport, import and export” shall be substituted.

3. *Amendment of section 1.*—In section 1 of the principal Act, in sub-section (1), the word “Indian” shall be omitted.

4. *Substitution of new section for section 4.*—For section 4 of the principal Act, the following section shall be substituted, namely:—

“4. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) “aircraft” means any machine which can derive support in the atmosphere from the reactions of the air, other than the reactions of the air against the earth’s surface, and includes balloons, whether fixed or free, airships, kites, gliders and flying machines;

(f) “carriage” includes and carriage, wagon, cart, truck, vehicle or other means of conveying good or passengers by land, in whatever manner the same may be propelled;

(c) “District Magistrate”, in relation to any area for which a Commissioner of Police has been appointed, means the Commissioner of Police thereof and includes—

(a) any such Deputy Commissioner of Police, exercising jurisdiction over the whole or any

part of such area, as may be specified by the State Government in this behalf in relation to such area or part; and

(b) an Additional District Magistrate;

(d) “explosive” means gunpowder, nitroglycerine, nitroglycol, gun-cotton, di-nitro-tolence, tri-nitro-tolence, picric acid, di-nitro-phenol, tri-nitro-resorcinol (styphnic acid), cyclo-trimethylene-trinitramine, pentaerythritol-tetranitrate, tetryl, nitro-guanidine, lead azide, lead styphenate, fulminate of mercury or any other metal, diazo-di-nitro-phenol, coloured fires or any other substance whether a single chemical compound or mixture of substances, whether solid or liquid or gaseous used or manufactured with a view to produce a practical effect by explosion or pyrotechnic effect; and includes fog-signals, fireworks, fuses, rockets, percussion-caps, detonators, cartridges, ammunition of all descriptions and every adaptation or preparation of an explosive as defined in this clause;

(e) “export” means taking out of India to a place outside India by land, sea or air;

(f) “import” means to bring into India from a place outside India by land, sea or air;

(g) “master”,—

(a) in relation to any vessel or aircraft means any person, other than a pilot, harbour master, assistant harbour master or berthing master, having for the time being the charge or control of such vessel or aircraft, as the case may be; and

(b) in relation to any boat belonging to a ship, means the master of that ship;

(h) “manufacture” in relation to an explosive includes the process of—

(1) dividing the explosive into its component parts or otherwise breaking up or unmaking the explosive, or making fit for use any damage explosive; and

(2) re-making, altering or repairing the explosive;

(i) “prescribed” means prescribed by rules made under this Act;

(j) “vessel” includes any ship, boat, sailing vessel, or other description of vessel used in navigation whether propelled by oars or otherwise and anything made for the conveyance mainly by water, of human beings or of good and a caisson.

5. *Amendment of section 5.*—In section 5 of the principal Act,—

(a) in sub-section (1), for the words “transport and importation”, the words “transport, import and export” shall be substituted;

(b) in sub-section (2),—

(i) in clause (e), the word “and shall be omitted;

(ii) after clause (e), the following clauses shall be inserted, namely:—

“(ee) the authority to which appeals may be preferred under section 6F, the procedure to be followed by such authority and the period within which appeals shall be preferred, the fees to be paid in respect of such appeals and the circumstances under which such fees may be refunded;

(eea) that total quantity of explosives that a licensee can purchase in a given period of time;

(eeb) the fees to be charged by the Chief Controller of Explosives or any officer authorised by him in this behalf, for services rendered in connection with the manufacture, transport, import or export of explosives;”;

(iii) in clause (f), after the words “any explosives”, the words “or any person or class of persons” shall be inserted;

(c) sub-section (3) shall be omitted.

6. *Insertion of new section 5A.*—After section 5 of the principal Act, the following section shall be inserted, namely:—

“5A. *Persons already in business in respect of certain explosives to carry on such business without licence*

for a certain period.—Notwithstanding anything in section 5 or in the rules made thereunder where, immediately before the commencement of the Indian Explosives (Amendment) Act, 1978, any person was carrying on the business of manufacture, sale, transport, import or export of any explosive for which no licence was required under this Act before its amendment by the Indian Explosives (Amendment) Act, 1978, then, such person shall be entitled to continue to carry on such business without licence in respect of such explosive—

- (a) for a period of three months from the date of such commencement; or
 - (b) if before the expiry of the said period of three months, such person has made an application for grant of licence under this Act for such business in such explosive, until the final disposal of his application,
- whichever is later."

7. Amendment of section 6.—In section 6 of the principal Act,—

- (a) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The Customs Act, 1962 (52 of 1962) shall have effect in relation to any explosive with regard to the importation of which a notification has been issued under this section and the vessel, carriage or aircraft containing such explosive as that Act has in relation to any article the importation of which is prohibited or regulated thereunder and the vessel, carriage or aircraft containing such article."

- (b) sub-section (3) shall be omitted.

8. Insertion of new sections 6A, 6B, 6C, 6D, 6E and 6F.—After section 6 of the principal Act, the following sections shall be inserted, namely:—

"6A. Prohibition of manufacture, possession, sale or transport of explosives by young persons and certain other persons.—Notwithstanding anything in the foregoing provisions of this Act,—

- (a) No person,—
 - (i) who has not completed the age of eighteen years, or
 - (ii) who has been sentenced on conviction of any offence involving violence or moral turpitude for term of not less than six months, at any time during a period of five years after the expiration of the sentence, or
 - (iii) who has been ordered to execute under Chapter VIII of the Code of Criminal Procedure 1973 (2 of 1974), a bond for keeping the peace or for good behaviour, at any time during the term of the bond, or
 - (iv) whose licence under this Act has been cancelled, whether before or after the commencement of the Indian Explosives (Amendment) Act, 1978, for contravention of the provisions of this Act or of the rules made thereunder, at any time during a period of five years from the date of cancellation of such licence,

shall,—

- (1) manufacture, sell, transport, import or export any explosive, or
- (2) possess any such explosive as the Central Government may, having regard to the nature thereof, by notification in the Official Gazette, specify;

- (b) no person shall sell, deliver or despatch any explosive to a person whom he knows or has reason to believe at the time of such sale, delivery or despatch,—
 - (i) to be prohibited under clause (a) to manufacture, sell, transport, import or export or possess such explosive, or
 - (ii) to be of unsound mind.

6B. Grant of licences.—(1) Where a person makes an application for licence under section 5, the authority prescribed in the rules made under that section

for grant of licence (hereinafter referred to in this Act as the licensing authority), after making such inquiry, if any, as it may consider necessary, shall, subject to the other provisions of this Act, by order in writing either grant the licence or refuse to grant the same.

(2) The licensing authority shall grant a licence—

- (a) where it is required for the purpose of manufacture of explosives if the licensing authority is satisfied that the person by whom licence is required—

- (i) possesses technical know-how and experience in the manufacture of explosives; or
- (ii) has in his employment or undertakes to employ a person or persons possessing such technical know-how and experience; or

- (b) where it is required for any other purpose, if the licensing authority is satisfied that the person by whom licence is required has a good reason for obtaining the same.

6C. Refusal of licences.—(1) Notwithstanding anything contained in section 6B, the licensing authority shall refuse to grant a licence—

- (a) where such licence is required in respect of any prohibited explosive; or
- (b) where such licence is required by a person whom the licensing authority has reason to believe—
 - (i) to be prohibited by this Act or by any other law for the time being in force to manufacture, possess, sell, transport, import or export any explosive, or
 - (ii) to be of unsound mind, or
 - (iii) to be for any reason unfit for a licence under this Act; or

- (c) where the licensing authority deems it necessary for the security of the public peace or for public safety to refuse to grant such licence.

(2) Where the licensing authority refuses to grant a licence to any person it shall record in writing the reasons for such refusal and furnish to that person on demand a brief statement of the same unless in any case the licensing authority is of opinion that it will not be in the public interest to furnish such statement.

6D. Licensing authority competent to impose conditions in addition to prescribed conditions.—A licence granted under section 6B may contain in addition to prescribed conditions such other conditions as may be considered necessary by the licensing authority in any particular case.

6E. Variation, suspension and revocation of licences.—

- (1) The licensing authority may vary the conditions subject to which a licence has been granted except such of them as have been prescribed and may for that purpose require the holder of licence by notice in writing to deliver up the licence to it within such time as may be specified in the notice.

(2) The licensing authority may, on the application of the holder of a licence, also vary the conditions of the licence except such of them as have been prescribed.

(3) The licensing authority may, by order in writing, suspend a licence for such period as it thinks fit or revoke a licence,—

- (a) if the licensing authority is satisfied that the holder of the licence is prohibited by this Act or by any other law for the time being in force to manufacture, possess, sell, transport, import or export any explosive, or is of unsound mind, or is for any reason unfit for a licence under his Act; or
- (b) if the licensing authority deems it necessary for the security of the public peace or for public safety to suspend or revoke the licence; or

(c) if the licence was obtained by the suppression

- of material information or on the basis of wrong information provided by the holder of the licence or any other person on his behalf at the time of applying for the licence; or
- (d) if any of the conditions of the licence has been contravened; or
- (e) if the holder of the licence has failed to comply with a notice under sub-section (1) requiring him to deliver-up the licence.

- (4) The licensing authority may also revoke a licence on the application of the holder thereof.
- (5) Where the licensing authority makes an order varying the conditions of a licence under sub-section (1) or an order suspending or revoking a licence under sub-section (3), it shall record in writing the reasons therefor and furnish to the holder of the licence on demand a brief statement of the same unless in any case the licensing authority is of the opinion that it will not be in the public interest to furnish such statement.
- (6) A court convicting the holder of a licence of any offence under this Act or the rules made thereunder may also suspend or revoke a licence:

Provided that if the conviction is set aside on appeal or otherwise, the suspension or revocation shall become void.

- (7) An order of suspension or revocation under sub-section (6) may also be made by an appellate court or by the High Court when exercising its powers of revision.
- (8) The Central Government may, by order in the Official Gazette, suspend or revoke, or direct any licensing authority to suspend or revoke, all or any licences granted under this Act throughout India or any part thereof.
- (9) On the suspension or revocation of a licence under this section the holder thereof shall without delay surrender the licence to the authority by whom it has been suspended or revoked or to such other authority as may be specified in this behalf in the order of suspension or revocation.

6F. Appeals.—(1) Any person aggrieved by an order of the licensing authority refusing to grant a licence or varying the conditions of a licence or by an order of the licensing authority suspending or revoking a licence may prefer an appeal against that order to such authority (hereinafter referred to as the appellate authority) and within such period as may be prescribed:

Provided that no appeal shall lie against an order made by, or under the direction of, the Central Government.

- (2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.

- (3) The period prescribed for an appeal shall be computed in accordance with the provisions of the Limitation Act, 1963 (36 of 1966), with respect to the computation of periods of limitation thereunder.

(4) Every appeal under this section shall be made by a petition in writing and shall be accompanied by a brief statement of the reasons for the order appealed against where such statement has been furnished to the appellant and by such fee as may be prescribed.

- (5) In disposing of an appeal the appellate authority shall follow such procedure as may be prescribed:

Provided that no appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.

- (6) The order appealed against shall, unless the appellate authority conditionally or unconditionally directs otherwise, be in force pending the disposal of the appeal against such order.

(7) Every order of the appellate authority confirming, modifying or reversing the order appealed against shall be final."

- 9. Amendment of section 7.**—In section 7 of the

principal Act,—

- (a) in sub-section (1),—

- (i) in clause (a),—

- (1) for the words "any place, carriage or vessel", the words "any place, aircraft, carriage or vessel" shall be substituted;
- (2) for the words "transported or imported", wherever they occur, the words "transported, imported or exported" shall be substituted;

- (ii) for clause (d), the following clause shall be substituted, namely:—

"(d) to seize, detain and remove any explosive or ingredient thereof found therein and, if necessary, also destroy such explosive or ingredient.";

- (b) in sub-section (2), for the words "Code of Criminal Procedure", the words and figures "Code of Criminal Procedure, 1973 (2 of 1974)" shall be substituted.

10. Amendment of section 8.—In section 8 of the principal Act,—

- (a) in sub-section (1),—

- (i) for the words "any carriage or vessel", the words "any aircraft, carriage or vessel" shall be substituted;

- (ii) for the words "the master of the vessel" the words "the master of the aircraft or vessel" shall be substituted;

- (iii) for the words "Chief Inspector of Explosives in India", the words "Chief Controller of Explosives" shall be substituted;

- (b) sub-section (2) shall be omitted.

11. Amendment of section 9.—In section 9 of the principal Act,—

- (a) in sub-section (1),—

- (i) for the words "any place, carriage or vessel", the words "any place, aircraft, carriage or vessel" shall be substituted;

- (ii) for the words "the Indian Forces", the words "Armed Forces of the Union" shall be substituted;

- (iii) the brackets and words "(or in a Presidency-town, the Commissioner of Police)" shall be omitted;

- (b) in sub-section (2), for the words and figures "Code of Criminal Procedure 1898", (5 of 1898), the words and figures "Code of Criminal Procedure, 1973 (2 of 1974)" shall be substituted;

- (c) in sub-section (4), in clauses (b), (c) and (d), for the words "Chief Inspector of Explosives in India", the words "Chief Controller of Explosives" shall be substituted.

12. Amendment of section 9A.—In section 9A of the principal Act, in sub-section (1), for the words "Chief Inspector of Explosives in India", the words "Chief Controller of Explosives" shall be substituted.

13. Insertion of new sections 9B and 9C.—After section 9A of the principal Act, the following sections shall be inserted, namely:—

"9B. Punishment for certain offences.—(1) Whoever, in contravention of rules made under section 5 or of the conditions of a licence granted under the said rules—

- (a) manufactures, imports or exports any explosive shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both;

- (b) possesses, uses, sells or transports any explosive shall be punishable with imprisonment for a term which extend to two years or with fine which may extend to three thousand rupees or with both; and

- (c) in any other case, with fine which may extend to one thousand rupees.

- (2) Whoever in contravention of a notification issued under section 6 manufactures, possesses

or imports any explosive shall be punishable with imprisonment for a term which may extend to three years or with fine may extend to five thousand rupees or with both; and in the case of importation by water, the owner and master of the vessel or in the case of importation by air, the owner and the master of the aircraft, which the explosive is imported shall, in the absence of reasonable excuse, each be punishable with fine which may extend to five thousand rupees.

(3) Whoever,—

(a) manufactures, sells, transports, imports, exports or possesses any explosive in contravention of the provisions of clause (a) of section 6A; or

(b) sells, delivers or despatches any explosive in contravention of the provisions of clause (b) of that section,

shall be punishable with imprisonment for a term which may extend to three years or with fine or with both; or

(c) in contravention of the provisions of section 8 fails to give notice of any accident shall be punishable,—

(i) with fine which may extend to five hundred rupees, or

(ii) if the accident is attended by loss of human life, with imprisonment for a term which may extend to three months or with fine or with both.

9C. *Offences by companies.*—(1) Whenever an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, or was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate, and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.”

14. *Substitution of new section for section 11.*—For section 11 of the principal Act, the following section shall be substituted, namely:—

“11. *Distress of aircraft or vessel.*—Where the owner or master of any aircraft or vessel is adjudged under this Act to pay a fine for any offence committed with, or in relation to, that aircraft or vessel, the Court may, in addition to any power it may have for the purpose of compelling payment of the fine, direct it to be levied by distress and sale of,—

(a) the aircraft and its furniture or so much of the furniture, or

(b) the vessel and the tackle, apparel and furniture of such vessel or so much of the tackle, apparel and furniture thereof, as is necessary for the payment of the fine.”

15. *Amendment of section 13.*—In section 13 of the principal Act,—

(a) for the words “ship or boat”, the words “aircraft or vessel” shall be substituted;

(b) for the words “conservator of the port”, the words “conservator of the port or officer in charge of the air port” shall be substituted.

16. *Amendment of section 14.*—In section 14 of the principal Act,—

(a) in clause (a) of sub-section (1), for the words “Indian Forces”, the words “Armed Forces of the Union, and Ordnance factories or other establishments of such Forces” shall be substituted;

(b) in sub-section (2), for the words “any explosive from all or any of the provisions of this Act”, the words “any explosive and any person or class of persons from all or any of the provisions of this Act or the rules made thereunder” shall be substituted.

17. *Amendment of section 15.*—In section 15 of the principal Act,—

(a) for the words and figures “Indian Arms Act, 1878 (11 of 1878)”, the words and figures “Arms Act, 1959 (54 of 1959)” shall be substituted;

(b) in the proviso, the word “Indian” shall be omitted.

18. *Insertion of new section 17A.*—After section 17 of the principal Act, the following section shall be inserted, namely:—

“17A. *Power to delegate.*—The Central Government may, by notification in the Official Gazette, direct that any power or function which may be exercised or performed by it under this Act other than the power under sections 5, 6, 6A, 14 and 17 may, in relation to such matters and subject to such conditions, if any, as it may specify in the notification, be exercised or performed also by—

(a) such officer or authority subordinate to the Central Government, or

(b) such State Government or such officer or authority subordinate to the State Government.”

19. *Amendment of section 18.*—In section 18 of the principal Act, after sub-section (7), the following sub-section shall be inserted, namely:—

“(8) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”

Assented to on 21-8-1978.

THE METRO RAILWAYS (CONSTRUCTION OF WORKS) ACT, 1978

ACT No. 33 of 1978

AN

ACT

to provide for the construction of works relating to metro railways in the metropolitan cities and for matters connected therewith.

Be it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, commencement and application.*—(1) This Act may be called the Metro Railways (Construction of Works) Act, 1978.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(3) It applies in the first instance to the metropolitan city of Calcutta; and the Central Government may, by notification in the Official Gazette, declare that this Act shall also apply to such other metropolitan city and with effect from such date as may be specified in that notification and thereupon the provisions of this Act shall apply to that city accordingly.

2. *Definitions*.—(1) In this Act, unless the context otherwise requires,—

- (a) "Advisory Board" means the Advisory Board constituted under section 4;
- (b) "arbitrator" means the arbitrator appointed under section 16;
- (c) "building" means a house, outhouse, stable, latrine, urinal, shed, hut or wall or any other structure or erection, whether of masonry bricks, wood, mud, metal or any other material or any part of a building, but does not include a plant or machinery installed in a building or any part thereof or any portable shelter;
- (d) "commissioner" means a commissioner of metro railway appointed under section 27;
- (e) "competent authority" means any person or authority authorised by the Central Government, by notification in the Official Gazette, to perform the functions of the competent authority under this Act for such area as may be specified in the notification;
- (f) "development" with its grammatical variations means the carrying out of building, engineering, mining or other operations in, on, over or under land or the making of any material change in any building or land or planting of any tree on land and includes redevelopment;
- (g) "land" includes any right or interest in land;
- (h) "metro alignment", in relation to any metropolitan city, means such alignment of the metro railway as is specified in the Schedule under that city and includes the metro railway;
- (i) "metro railway" means a metro railway or any portion thereof for the public carriage of passengers, animals or goods and includes—
 - (a) all land within the boundary marks indicating the limits of the land appurtenant to a metro railway;
 - (b) all lines of rails, sidings, yards or branches worked over for the purposes of, or in connection with, a metro railway;
 - (c) all stations, offices, ventilation shafts and ducts, warehouses, workshops, manufactories, fixed plants and machineries, sheds, depots and other works constructed for the purpose of, or in connection with a metro railway;
- (j) "metro railway administration", in relation to any metro railway, means the General Manager of that metro railway;
- (k) "metropolitan city" means the metropolitan city of Bombay, Calcutta, Delhi or Madras;
- (l) "metropolitan city of Bombay" means the area covered by Greater Bombay as defined in the Bombay Municipal Corporation Act, 1888 (Bombay Act III of 1888).
- (m) "metropolitan city of Calcutta" means the area described under the heading "1. Calcutta Metropolitan District" in the Schedule to the Calcutta Metropolitan Planning Area (Use and Development of Land) Control Act, 1965 (West Bengal Act XIV of 1965);
- (n) "metropolitan city of Delhi" means the entire area of the Union territory of Delhi;
- (o) "metropolitan city of Madras" means the area covered by the City of Madras as defined in the Madras City Municipal Act, 1919 (Act IV);
- (p) "prescribed" means prescribed by rules made under this Act;
- (q) "rolling stock" includes locomotives, engines, carriages (whether powered or not), wagons, trollies and vehicles of all kinds moving or in-

tended to move on rails;

- (r) "to erect", in relation to any building, includes—
 - (i) any material alteration or enlargement of such building,
 - (ii) conversion, by structural alteration, into a place for human habitation of such building not originally constructed for human habitation,
 - (iii) conversion into more than one place for human habitation of such building originally constructed as one such place,
 - (iv) conversion of two or more places of human habitation in such building into a greater number of such places,
 - (v) such alteration of such building as would alter the drainage or sanitary arrangements therein or would materially affect its security, and
 - (vi) the addition of any rooms in such building.

(2) All other words and expressions used herein and not defined but defined in the Indian Railways Act, 1890 (9 of 1890), shall have the meanings, respectively, assigned to them in that Act.

CHAPTER II

METRO RAILWAY ADMINISTRATION

3. *General Manager*.—The Central Government may, for the purposes of this Act, appoint a General Manager for every metro railway.

4. *Constitution of Advisory Board*.—(1) The Central Government may constitute an Advisory Board for every metro railway for the purpose of assisting or advising that Government on—

- (a) the formulation and coordination of plans for the development of metro railway and its expansion;
- (b) the financing and execution of any project for the construction of the metro railway;
- (c) such other matters as may be referred to it for carrying out the purposes of this Act and in particular for the purpose of ensuring that the functions of the metro railway administration are exercised with due regard to the circumstances or conditions prevailing in, and requirements of, the metropolitan city.

(2) The Advisory Board shall consist of such number of members (being officers of the Government) not exceeding nine as may be appointed to it by the Central Government.

(3) The Central Government shall appoint one of the members of the Advisory Board as its Chairman.

(4) The Central Government shall publish in the Official Gazette the names of all the members of the Advisory Board and the Chairman thereof.

(5) The Advisory Board shall meet at such times and places and shall observe such procedure in regard to the transaction of its business as may be prescribed.

(6) The members of the Advisory Board shall hold office for such term as may be prescribed.

5. *Committees*.—(1) The Advisory Board may constitute as many committees as it deems necessary consisting wholly of members of such Board or wholly of other persons or partly of members of the Board and partly of other persons for such purposes as it may think fit.

(2) Every committee constituted under sub-section (1) shall meet at such times and places and shall observe such procedure in regard to the transaction of its business as may be prescribed.

(3) There shall be paid to the members of the committee who are not members of the Advisory Board, such fees and allowances for attendance at the meetings of the committee and such travelling allowances as may be prescribed.

CHAPTER III

ACQUISITION

6. *Power to acquire land, etc.*—Where it appears to a metro railway administration that for the construction of any metro railway or any other work connected therewith—

- (a) any land, building, street, road or passage, or

- (b) any right of user, or any right in the nature of easement, therein,

is required for such construction or work, it shall apply to the Central Government in such form as may be prescribed for acquiring such land, building, street, road or passage or such right of user or easement.

7. *Publication of notification for acquisition.*—(1) On receipt of an application under section 6, the Central Government, after being satisfied that the requirement mentioned therein is for a public purpose, may, by notification in the Official Gazette, declare its intention to acquire the land, building, street, road or passage, or the right of user, or the right in the nature of easement, therein referred to in the application.

(2) Every notification under sub-section (1) shall give a brief description of the land, building, street, road or passage.

(3) The competent authority shall cause the substance of the notification to be published in such places and in such manner as may be prescribed.

8. *Power to enter for survey, etc.*—On the issue of a notification under sub-section (1) of section 7, it shall be lawful for the metro railway administration or any officer or other employee of the metro railway—

- to enter upon and survey and take level of the land, building, street, road or passage specified in the notification;
- to dig or bore into the sub-soil;
- to set out the intended work;
- to mark such levels, boundaries or lines by placing marks and cutting trenches;
- to do all other acts necessary to ascertain whether the metro railway can be laid upon or under the land, building, street, road or passage, as the case may be;

Provided that while exercising any power under this section the metro railway administration or such officer or other employee shall cause as little damage or injury as possible to such land, building, street, road or passage, as the case may be.

9. *Hearing of objection.*—(1) Any person interested in the land, building, street, road or passage may, within twenty-one days from the date of publication of the notification under sub-section (1) of section 7 object to the construction of the metro railway or any other work connected therewith upon or under the land, building, street, road or passage, as the case may be.

(2) Every objection under sub-section (1) shall be made to the competent authority in writing and shall set out the grounds thereof and the competent authority shall give the objector an opportunity of being heard, either in person or by a legal practitioner, and may, after hearing all such objections and after making such further enquiry, if any, as the competent authority thinks necessary, by order, either allow or disallow the objections.

Explanation.—For the purposes of this sub-section “legal practitioner” has the same meaning as in clause (f) of sub-section (1) of section 2 of the Advocates Act, 1961 (25 of 1961).

(3) Any order made by the competent authority under sub-section (2) shall be final.

10. *Declaration of acquisition.*—(1) Where no objection under sub-section (1) of section 9 has been made to the competent authority within the period specified therein or where the competent authority has disallowed the objection under sub-section (2) of that section, the competent authority shall, as soon as may be, submit a report accordingly to the Central Government and on receipt of such report, the Central Government shall declare, by notification in the Official Gazette, that the land, building, street, road or passage, or the right of user, or the right in the nature of easement, therein for laying the metro railway should be acquired.

(2) On the publication of the declaration under sub-section (1), the land, building, street, road or passage, or the right of user, or the right in the nature of easement, therein shall vest absolutely in the Central Government free from all encumbrances.

(3) Where in respect of any land, building, street, road

or passage, a notification has been published under sub-section (1) of section 7 either for its acquisition or for the acquisition of the right of user, or any right in the nature of easement, therein, but no declaration under this section has been published within a period of one year from the date of publication of that notification, the said notification shall cease to have any effect.

(4) A declaration made by the Central Government under sub-section (1) shall not be called in question in any court or by any other authority.

11. *Power to take possession of acquired land, etc.*—

(1) Subject to the provisions of section 14, where any land, building, street, road or passage has vested under sub-section (2) of section 10, the competent authority may by notice in writing direct the owner as well as any other person who may be in possession of such land, building, street, road or passage to surrender or deliver possession thereof to the competent authority or any person duly authorised by it in this behalf within sixty days of the service of the notice.

(2) If any person refuses or fails to comply with any direction made under sub-section (1), the competent authority shall apply,—

- in the case of any land, building, street, road or passage situated in any area falling within the Presidency-town of Bombay, Calcutta or Madras, to the Commissioner of Police;
- in the case of any land, building, street, road or passage situated in any area or other than the area referred to in clause (a), to the Executive Magistrate, and such Commissioner or Magistrate, as the case may be, shall enforce the surrender of the land, building, street road or passage to the competent authority or to the person duly authorised by it.

12. *Right to enter into the land where right of user, etc., is vested in the Central Government.*—Where the right of user in, or any right in the nature of easement on, any land, building, street, road or passage has vested in the Central Government under section 10, it shall be lawful for the metro railway administration or any officer or other employee of the Central Government to enter and do any other act necessary upon the land, building, street, road or passage for carrying out the construction of the metro railway or any other work connected therewith.

13. *Determination of amount payable for acquisition.*—

(1) Where any land, building, street, road or passage is acquired under this Act, there shall be paid an amount which shall be determined by the competent authority.

(2) Where the right of user in, or any right in the nature of an easement on, any land, building, street, road or passage is acquired under this Act, there shall be paid an amount to the owner and any other person whose right of enjoyment in that land, building, street, road or passage has been affected in any manner whatsoever by reason of such acquisition an amount calculated at ten per cent of the amount determined under sub-section (1) for that land, building, street, road or passage.

(3) If the amount determined by the competent authority under sub-section (1) or sub-section (2) is not acceptable to either of the parties the amount shall, on an application by either of the parties, to the arbitrator, be determined by the arbitrator.

(4) The competent authority or the arbitrator while determining the amount under sub-section (1) or sub-section (3), as the case may be shall take into consideration—

- the market value of the land, building, street, road or passage on the date of publication of the notification under section 7;
- the damage if any, sustained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land;
- the damage, if any, sustained by the person interested at the time of taking possession of the land, building, street, road or passage by reason of the acquisition injuriously affecting his other immovable property in any other manner, or his earnings;

- (d) if, in consequence of the acquisition of the land, building, street, road or passage, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.

14. *Deposit and payment of amount.*—(1) The amount determined by the competent authority under section 13 shall be deposited by the Central Government in such manner as may be prescribed with the competent authority before taking possession of the land, building, street, road or passage.

(2) As soon as may be after the amount has been deposited under sub-section (1), the competent authority shall on behalf of the Central Government pay the amount to the person or persons entitled thereto.

(3) Where several persons claim to be interested in the amount deposited under sub-section (1), the competent authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them.

(4) If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land, building, street, road or passage is situated.

(5) Where the amount determined under section 13 by the arbitrator is in excess of the amount determined by the competent authority, the arbitrator may award interest at six per cent per annum on such excess amount from the date of taking possession under section 11 till the date of the actual deposit thereof.

(6) Where the amount determined by the arbitrator is in excess of the amount determined by the competent authority, the excess amount together with interest, if any, awarded under sub-section (5) shall be deposited by the Central Government in such manner as may be prescribed with the competent authority and the provisions of sub-sections (2) to (4) shall apply to such deposit.

15. *Competent authority to have certain powers of civil court.*—The competent authority shall have, for the purposes of this Act, all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) reception of evidence on affidavits;
- (d) requisitioning any public record from any court office;
- (e) issuing commission for examination of witnesses.

16. *Arbitrator.*—(1) For every metro railway the Central Government shall, for the purposes of this Act, appoint as arbitrator a person who is, or has been, or is qualified for appointment as, a Judge of a High Court.

(2) The arbitrator may, if he thinks it expedient so to do, call in his aid one or more assessors and hear the references wholly or partially with the aid of such assessors.

(3) Subject to the provisions of this section the provisions of the Arbitration Act, 1940 (10 of 1940), shall apply to every arbitration under this Act.

17. *Land Acquisition Act 1 of 1894 not to apply.*—Nothing in the Land Acquisition Act, 1894, shall apply to an acquisition under this Act.

CHAPTER IV

CONSTRUCTION OF WORKS

18. *Functions of metro railway administration.*—Subject to the control of the Central Government, the metro railway administration shall, for the purpose of constructing any metro railway or any other work connected therewith,—

- (a) make or construct in, upon, across, under or over any lands, buildings, streets, road, railways or tramways or any rivers, canals, brooks, streams or other waters

or any drains water-pipes, gaspipes, electric lines or telegraph lines, such temporary or permanent inclined plans, arches, tunnels, culverts, embankments, aqueducts, bridges, ways or passages as the metro railway administration thinks proper;

- (b) alter the course of any rivers, canals, brooks, streams or water-courses for the purpose of constructing tunnels, passages or other works over or under them and divert or alter as will temporarily as permanently, the course of any rivers, canals, brooks, streams or water-courses or any drains, water-pipes, gas-pipes, electric lines or telegraph lines or raise or sink the level thereof in order the more conveniently to carry them over or under, as the metro railway administration thinks proper;

- (c) make drains or conduits into, through or under, any lands adjoining the metro railway for the purpose of conveying water from or to the metro railway;

- (d) erect or construct such houses, warehouses, offices and other buildings and such yards, stations, engines, machinery, apparatus and other works and conveniences, as the metro railway administration thinks proper;

- (e) alter, repair or discontinue such buildings, works and conveniences as aforesaid or any of them, and substitute others in their stead;

- (f) draw, make or conduct such maps, plans, surveys or tests, as the metro railway administration thinks proper;

- (g) do all other acts necessary for making, maintaining, altering or repairing and using the metro railway.

19. *Powers of metro railway administration.*—(1) The metro railway administration shall, for the purpose of constructing any metro railway or any other work connected therewith, have power—

- (a) to enter into contracts and leases and to execute all instruments necessary therefor;

- (b) to make such number of rail tracks as the Central Government may think necessary upon, under, along or across any land, canal, river, street or road on or in the metro alignment and all other works and conveniences in connection therewith;

- (c) to open or divert, as the case may be, any street, road, cable, trench, drain (including a sewer), channel, ditch, culvert or any other device (whether for carrying of sullage, sewage, offensive matter, polluted water, trade effluent, rain water, sub-soil water or any other object), electric or gas supply line or tele-communication line, or telegraph installation, over, across or under any land, building, street, road, railway or tramway;

- (d) to borrow tunnels;

- (e) to lay down signalling and other communication facilities, electric sub-stations, supply lines and other works;

- (f) to regulate drilling of tubewells or sinking of wells, public or private, in the proximate vicinity of the metro alignment;

- (g) to do all other things necessary or expedient for the exercise of any of the aforesaid powers.

(2) While exercising any powers under sub-section (1), the metro railway administration shall take such precautionary measures as are necessary, shall do as little damage as possible and shall be liable only for the damage or cost actually suffered or incurred by any person as a result of the exercise of such powers.

20. *Development over metro alignment.*—(1) Any person who proposes to develop any land or building along or on the metro alignment shall, before commencing such development and without in any way limiting his obligation under any other Act to obtain any approval or consent, submit to the metro railway administration details of the proposed development and shall comply with any conditions imposed by the metro railway administration in respect thereof.

(2) The metro railway administration shall, while imposing any condition under sub-section (1), have regard to—

- (a) the safety of the metro railway;
- (b) such other matters as may be prescribed.

21. Power to prohibit or regulate construction of buildings and excavation.—(1) If the Central Government is of opinion that it is necessary or expedient so to do for facilitating the construction of any metro railway or for ensuring the safety of any metro railway, it may, by notification in the Official Gazette,—

- (a) direct that no building or any such development as may be specified in the notification shall be constructed or made above the metro alignment or on any land within such distance, not exceeding ten metres on either side of the metro alignment, as may be specified in the notification and where there is any building on such land also direct the owner of, or the person having control over, such building to demolish such building or to make such additions or alterations to such building as may be specified in the notification or to desist from making any such development and within such period as may be specified in the notification;
- (b) direct temporary evacuation of all persons together with any movable property or animal that may be in the custody, control of possession of such persons from any building situated above the metro alignment or in any area within a distance not exceeding twenty metres on either side of such alignment and within such period as may be specified in the notification.

Provided that before issuing any notification under this clause, the Central Government shall provide every such person temporarily with alternative accommodation, which in its opinion is suitable, free of cost, or an amount, in its opinion is sufficient, to procure a temporary alternative accommodation.

(2) Where any property is needed or likely to be needed for providing any alternative accommodation under the proviso to clause (b) of sub-section (1), such property shall be deemed to be needed for a public purpose under section 3 of the Requisitioning and Acquisition of Immovable Property Act, 1952 (30 of 1952), and the competent authority under that Act shall requisition the property in accordance with the provisions of that Act and such provisions shall, in relation to such requisition, apply accordingly.

(3) In specifying the distance under clause (a) sub-section (1), the Central Government shall have regard to—

- (a) the nature and the requirement of the metro railway;
- (b) the safety of the building;
- (c) such other matters as may be prescribed.

(4) Where any notification has been issued under sub-section (1) directing the owner or the person having control over any building to demolish such building or to make additions or alterations to such building or to desist from making any development specified in such notification, a copy of the notification containing such direction shall be served on the owner or, the person having control, over, such building, as the case may be,—

- (i) by delivering or tendering it to such owner or person; or
- (ii) if it cannot be delivered or tendered, by delivering or tendering it to the agent of such owner or person or any adult male member of the family of such owner or person or by affixing a copy thereof on the outer door or on some conspicuous part of the premises in which such owner or person is known to have last resided or carried on business or personally worked for gain; or failing service by these means;
- (iii) by post.

(5) Every person shall be bound to comply with any direction contained in any notification issued under sub-section (1).

22. Payment of amount for prohibition of construction, etc.—(1) If in consequence of any direction contained in any notification issued under sub-section (1) of section 21 any person sustains any loss or damage, such person shall be paid an amount which shall be determined by the competent authority in the first instance.

(2) If the amount determined by the competent authority is not acceptable to either of the parties, the amount shall, on an application by either of the parties to the arbitrator, be determined by the arbitrator.

(3) The competent authority or the arbitrator, while determining the amount under sub-section (1) or sub-section as the case may be, shall take into consideration—

- (i) the loss or damage sustained by such person in his earnings;
- (ii) the diminution, if any, of the market value of the land or building immediately after the date of publication of such notification;
- (iii) where in pursuance of any direction any building has been demolished or any additions or alterations to such building have been made or any development has been desisted by such person, the damage sustained by him in consequence of such demolition or the making of such additions or alterations or the desisting from making such development and the expenses incurred by such person for such demolition or additions or alterations;

Provided that the expenses incurred for such demolition or additions or alterations shall not be taken into consideration if such demolition or additions or alterations has or have been done by the metro railway administration under sub-section (2) of section 36;

(iv) if any such person is compelled to change his residence or place of business the reasonable expenses, if any, that may have to be incurred by him incidental to such change.

23. Power to underpin building or otherwise strengthen it.—(1) If the metro railway administration is of opinion that it is necessary or expedient so to do for facilitating the construction of any metro railway or for ensuring the safety of any metro railway, it may, underpin or otherwise strengthen any building within such radius not exceeding fifty metres from the metro alignment.

(2) The metro railway administration shall give to the owner or occupier of such building at least ten days notice in writing before undertaking the work of underpinning or otherwise strengthening the building:

Provided that where the metro railway administration is satisfied that an emergency exists, no such notice shall be necessary.

(3) Where the underpinning or strengthening was executed in connection with—

- (a) the carrying out of the works upon the land where any building is situated, or
- (b) the construction or operation of any metro railway, the metro railway administration may, at any time after the underpinning or strengthening of such building is completed and before the expiration of a period of twelve months,—

- (i) in a case referred to in clause (a), from the completion of such works; and
- (ii) in a case referred to in clause (b), from the date on which traffic was opened in the metro railway,

enter upon and survey such building and do such further underpinning or strengthening thereon as it may deem necessary.

24. Power to enter, etc.—(1) With a view to making survey, or to ascertaining the nature or condition, of any land or building for the purpose of construction of any metro railway or any other work connected therewith, the metro railway administration or any person authorised by that administration may, at any reasonable hour in the day time and after giving reasonable notice to the owner or occupier of such land or building, enter upon or into such land or building in, along, over or near the metro alignment to—

- (a) inspect the same;

- (b) make measurements and drawings and take photographs thereof and such other suitable measures as may be necessary to explore and check up, by digging trial pits or otherwise, the foundation of any building in the vicinity of the metro alignment;
- (c) take such other measures as the said administration deems necessary and proper.

(2) Without prejudice to the powers conferred on it under section 19, the metro railway administration may, by writing, request any person or body of persons controlling any sewer, storm water drain, pipe, wire or cable to carry out at the expense of the metro railway administration any alterations thereto which that administration is authorised or may be required to carry out to meet any particular situation for carrying out the purposes of this Act.

(3) If any difference or dispute arises between the metro railway administration and the person or body of persons referred to in sub-section (2) in relation to any such alterations or the cost thereof, such difference or dispute shall be determined by the Central Government in consultation (wherever necessary) with the State Government and the decision of the Central Government in this regard shall not be called in question in any court.

25. Amount payable for damage, loss or injury.—

(1) Where the metro railway administration exercises any power conferred on it by or under this Act and in consequence thereof any damage, loss or injury is sustained by any person interested in any land, building, street, road or passage, the metro railway administration shall be liable to pay to such person for such damage, loss or injury such amount as may be determined by the competent authority.

(2) If the amount determined by the competent authority under sub-section (1) is not acceptable to either of the parties, the amount payable shall, on application by either of the parties to the arbitrator, be determined by the arbitrator.

(3) The competent authority or the arbitrator while determining the amount under sub-section (1) or sub-section (2), as the case may be, shall have due regard to the damage, loss or injury sustained by any person interested in the land, building, street, road or passage by reason of—

- (i) the removal of trees or standing crops, if any;
- (ii) the temporary severance of the land, building, street, road or passage;
- (iii) any injury to any other property whether movable or immovable.

26. *Right to claim for damages.*—No claim in respect of any damage, loss or injury alleged to have been caused as a consequence of construction of any metro railway or any other work connected therewith under this Act shall lie against the metro railway administration unless such claim is made within a period of twelve months from the date of completion of the construction of such metro railway or other work in the area in which such damage, loss or injury is caused.

CHAPTER V

INSPECTION OF METRO RAILWAY

27. *Appointment and duties of commissioner.*—(1) The Central Government may appoint as many persons as it thinks fit by name or by virtue of their office to be commissioners of metro railway.

(2) Every commissioner shall—

- (a) inspect the metro railway with a view to determining whether it is fit to be opened for public carriage of passengers and report thereon to the Central Government;
- (b) make such periodical or other inspections of any metro railway or of any rolling stock used thereon as the Central Government may direct;
- (c) perform such other duties as may be imposed on him by or under this Act or any other enactment for the time being in force relating to railways or required by the Central Government.

28. *Powers of commissioners.*—Subject to the control of the Central Government every commissioner shall have the power—

- (a) to enter upon and inspect any metro railway or any rolling stock used thereon;
- (b) to make any enquiry or to take any measurement as he thinks fit for the performance of his duties under this Act;
- (c) by an order in writing under his hand and official seal addressed to any metro railway administration, to require the attendance before him of any officer or other employee of the metro railway and to require answers or returns, to such enquiries as he thinks fit to make, from such officer or other employee or from the said administration;
- (d) to require the production of any book or other documents belonging to, or in the possession or control of, any metro railway administration which it appears to him to be necessary to inspect for the performance of his duties by or under this Act.

29. *Facilities to be afforded to commissioner.*—Every metro railway administration shall afford to every commissioner all reasonable facilities for performing the duties or exercising the powers imposed or conferred upon him by or under this Act.

CHAPTER VI

MISCELLANEOUS

30. *Surplus land to be sold or otherwise disposed of.*—Every metro railway administration may, with the previous approval of the Central Government, sell or otherwise dispose of any land vested in the Central Government under the provisions of this Act when such land is no longer required for the purposes of the metro railway.

31. *Notice of accidents and enquiries.*—(1) If any accident occurs during the construction of any metro railway or at any stage subsequent thereto as a consequence of such construction and the accident results in, or is likely to have resulted in, loss of human being or animal or damage to any property, it shall be the duty of the metro railway administration to give notice to the Central Government of the occurrence of any such loss or damage in such form and with, in such time as may be prescribed.

(2) On receipt of a notice under sub-section (1), the Central Government may, if it thinks fit, appoint a commission to enquire into the accident and report as to—

- (a) the cause of such accident;
- (b) the manner in which and the extent to which the provisions of this Act or any other Act for the time being in force in so far as those provisions regulate and govern the safety of any person, animal or property, have been complied with.

(3) The commission appointed under sub-section (2), while holding an enquiry, shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery or production of any document;
- (c) reception of evidence on affidavits;
- (d) requisitioning any public record from any court or office;
- (e) issuing commission for examination of witnesses.

32. *Power to alter the entries in the Schedule.*—(1) The Central Government may, by notification in the Official Gazette,—

- (a) add to the Schedule the metro alignment in respect of a metropolitan city to which this Act is made applicable under sub-section (3) of section 1;
- (b) alter any metro alignment specified in the Schedule if it is of opinion that such alteration is necessary for the construction and maintenance of the metro railway to which such alignment relates.

(2) Every notification issued under sub-section (1) shall, as soon as may be after it is issued, be laid before each House of Parliament.

33. *Prohibition of obstruction.*—No person shall, without any reasonable cause or excuse, obstruct any person with whom the metro railway administration has entered into a contract, in the performance or execution by such person of such contract.

34. *Local authorities to assist.*—Every local authority shall render such help and assistance and furnish such information to the metro railway administration as that administration may require for discharging its functions and shall make available to the said administration for inspection and examination, such records, maps, plans and other documents as may be necessary for the discharge of such functions.

35. *Prohibition of removal of marks.*—No person shall remove any marks placed or fill up any trench cut for the purpose of marking levels, boundaries or lines by the metro railway administration.

36. *Penalty for failure to comply with directions issued under section 21.*—(1) If any person wilfully fails to comply with any direction contained in any notification issued under section 21, he shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) Without prejudice to the provisions of sub-section (1), if any person fails to demolish any building or make additions or alterations thereto in pursuance of any direction contained in any notification issued under section 21 within the period specified in the notification, then, subject to such rules as the Central Government may make in this behalf, it shall be competent for any officer authorised by the metro railway administration in this behalf to demolish such building or make necessary additions or alterations thereto.

37. *General provision for punishment of offences.*—Whoever contravenes any provision of this Act or of any rule made thereunder shall, if no other penalty is provided for such contravention elsewhere in this Act or the rules, be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

38. *Offences by companies.*—(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm, means a partner in the firm.

39. *Bar of jurisdiction.*—No suit or application for injunction shall lie in any court against the Central Government or the metro railway administration or any officer or other employee of that Government or the metro railway or any person working for or on behalf of the metro railway administration, in respect of any work done or purported to have been done or intended to be done by it or the said administration or such officer

or other employee or such person in connection with the construction of any metro railway or any other work connected therewith.

40. *Effect of Act and rules, etc., inconsistent with other enactments.*—The provisions of this Act or any rule made or any notification issued thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

41. *Protection of action taken in good faith.*—(1) No suit, prosecution or other legal proceeding shall lie against the Central Government, the metro railway administration or any officer or other employee of that Government or the metro railway for anything which is in good faith done or intended to be done under this Act.

(2) No suit, prosecution or other legal proceeding shall lie against the Central Government or the metro railway administration or any officer or other employee of that Government or the metro railway for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

42. *Power to remove difficulties.*—If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, do anything not inconsistent with such provisions, which appears to it to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall, in relation to any metropolitan city, be made after the expiry of a period of two years from the date on which this Act applies or is made applicable to such metropolitan city under sub-section (3) of section 1.

43. *Application of the Indian Railways Act, 1890.*—Save as otherwise provided in this Act, the provisions of this Act shall be in addition to, and not in derogation of, the Indian Railways Act, 1890 (9 of 1890).

44. *Power to make rules.*—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for the following matters, namely:—

- (a) the times and places at which the Advisory Board shall meet and the procedure in regard to transaction of business by the Advisory Board under sub-section (5) of section 4;
- (b) the term of office of the members of the Advisory Board under sub-section (6) of section 4;
- (c) the times and places at which the committees shall meet and the procedure in regard to transaction of business by the committees under sub-section (2) of section 5;
- (d) the payment of fees, allowances and travelling allowances to the members of the committee under sub-section (3) of section 5;
- (e) the form in which an application for acquisition shall be made under section 6;
- (f) the places at which and the manner in which the substance of the notification shall be published under sub-section (3) of section 7;
- (g) the manner in which the amount shall be deposited with the competent authority under sub-sections (1) and (6) of section 14;
- (h) the matters to be specified under clause (b) of sub-section (2) of section 20;
- (i) the matters to be specified under clause (c) of sub-section (3) of section 21;
- (j) the form in which and the time within which a notice shall be given under sub-section (1) of section 31;
- (k) any other matter which is required to be or may be prescribed.

(3) Every rule made under this section shall be laid, soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses

agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

45. *Saving.*—Notwithstanding anything contained in this Act any proceeding, for the acquisition of any land, under the Land Acquisition Act, 1894 (1 of 1894) for the purpose of any metro railway, pending immediately before the commencement of this Act before any court or other authority shall be continued and be disposed of under that Act as if this Act had not come into force.

Assented to on 27-8-1978.

THE DELHI POLICE ACT, 1978

(ACT NO 34 OF 1978)

AN ACT

to amend and consolidate the law relating to the regulation of the police in the Union territory of Delhi.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

CHAPTER I PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Delhi Police Act, 1978.

(2) It extends to the whole of the Union territory of Delhi.

(3) It shall be deemed to have come into force on the 1st day of July, 1978.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

- (a) "Administrator" means the Administrator of Delhi appointed under article 239 of the Constitution;
- (b) "cattle" includes elephants, camels, horses, asses, mules, sheep, goats and swine;
- (c) "competent authority", when used with reference to the exercise of any power or discharge of any duty under the provisions of this Act, means the Commissioner of Police appointed under section 6 or any other police officer specially empowered in that behalf by the Central Government;
- (d) "constable" means a police officer of the lowest grade;
- (e) "Corporation" means the Municipal Corporation of Delhi constituted under the Delhi Municipal Corporation Act, 1957 (66 of 1957);
- (f) "Delhi" means the Union territory of Delhi;
- (g) "Delhi police" or "police force" means the police force referred to in section 3 and includes—
 - (i) all persons appointed as special police officers under sub-section (1) of section 17 and additional police officers appointed under section 18; and
 - (ii) all other persons, by whatever name known, who exercise any police function in any part of Delhi;
- (h) "eating house" means any place to which the public are admitted and where any kind of food or drink is supplied for consumption on the premises by any person owning, or having any interest in, or managing, such place and includes—
 - (i) a refreshment room, boarding house or coffee house, or
 - (ii) a shop where any kind of food or drink is supplied to the public for consumption in or near such shop, but does not include a place of public entertainment;
- (i) "municipality" means the New Delhi Municipal Committee, the Cantonment Board or any other municipal body, other than the Corporation, established by or under any law for the time being in force in or in any part of Delhi;

(j) "place" includes—

- (i) any building, tent, booth or other erection, whether permanent or temporary; and
- (ii) any area, whether enclosed or open;

(k) "place of public amusement" means any place where music, singing, dancing or game or any other amusement, diversion, or recreation or the means of carrying on the same is provided, to which the public are admitted either on payment of money or with the intention that money may be collected from those admitted and includes a race course, circus, theatre, music hall, billiard or bagatelle room, gymnasium, fencing school, swimming pool or dancing hall;

(l) "place of public entertainment" means a lodging house, boarding and lodging house or residential hostel and includes any eating house or other place in which any kind of liquor or intoxicating drug is supplied (such as a tavern or a shop where beer, spirit, arrack, toddy, ganja, bhang or opium is supplied) to the public for consumption in or near such place;

(m) "police officer" means any member of the Delhi police;

(n) "prescribed" means prescribed by rules;

(o) "public place" means any place to which the public have access, whether as of right or not, and includes—

- (i) a public building and monument and precincts thereof; and
- (ii) any place accessible to the public for drawing water, washing or bathing or for purposes of recreation;

(p) "regulations" means regulations made under this Act;

(q) "rules" means rules made under this Act;

(r) "street" includes any highway, bridge, way over a causeway, viaduct or arch or any road, lane, footway, square, court, alley or passage accessible to the public, whether or not it is a thoroughfare;

(s) "subordinate ranks" means members of the police force of and below the rank of the Inspector;

(t) "vehicle" means any carriage, cart, van, dray, truck, handcart or other conveyance of any description and includes a bicycle, tricycle, a rickshaw, a motor vehicle, a vessel or an aeroplane.

CHAPTER II

ORGANISATION, SUPERINTENDENCE AND CONTROL OF THE POLICE FORCE

3. *One police force for the whole of Delhi.*—There shall be one police force for the whole of Delhi and all officers and subordinate ranks of the police force shall be liable for posting to any branch of the force including the Delhi Armed Police.

4. *Superintendence of police force to vest in the Administrator.*—The superintendence of the Delhi police throughout Delhi shall vest in, and be exercisable by the Administrator and any control, direction or supervision exercisable by any officer over any member of the police force shall be exercisable subject to such superintendence.

5. *Constitution of police force.*—Subject to the provisions of this Act,—

(a) the Delhi police shall consist of such number in the several ranks and have such organisation and such powers, functions and duties as the Administrator may, by general or special order, determine; and

(b) the recruitment to, and the pay, allowances and all other conditions of service of the members of, the Delhi police shall be such as may be prescribed;

Provided that nothing in clause (b) shall apply to the recruitment to, and the pay, allowances and other conditions of service of the members of the Indian Police Service or the Delhi, Andaman and Nicobar Island Police Service.

6. *Commissioner of Police.*—For the direction and supervision of the police force in Delhi, the Administrator shall appoint a Commissioner of Police who shall exercise and perform such powers and duties and perform such functions as are specified by or under this Act.

7. *Additional Commissioner of Police.*—(1) The Administrator may appoint one or more Additional Commissioners of Police for the purposes of this Act.

- (2) The Additional Commissioner of Police shall—
- (a) assist the Commissioner of Police in the exercise of his powers and the performance of his duties in such manner and to such extent, and
- (b) exercise such powers and perform such duties of the Commissioner of Police and within such local limits,

as the Administrator may, by general or special order, specify.

8. *Deputy, Additional Deputy and Assistant Commissioners of Police.*—(1) The Administrator may appoint one or more Deputy Commissioners of Police or Additional Deputy Commissioners of Police or Assistant Commissioners of Police for the purposes of this Act.

(2) Without prejudice to the other provisions of this Act and subject to any general or special orders made by the Administrator in this behalf, every Deputy Commissioner of Police or Additional Deputy Commissioner of Police or Assistant Commissioner of Police shall, under the orders of the Commissioner of Police exercise such of the powers (except the power to make regulations) and perform such of the duties of the Commissioner of Police and within such local limits as may be specified in such orders.

9. *Appointment of Principals of Police training institutions.*—(1) (a) The Administrator shall appoint a police officer not below the rank of a Deputy Commissioner of Police to be the Principal of the Police Training School for Delhi.

(b) The Commissioner of Police may by general or special order assign to the Principal of the Police Training School such powers and duties as he may deem fit for the proper functioning of that School.

(2) (a) The Administrator may establish a Police Training College for the Delhi and appoint a police officer of appropriate rank to be the Principal of such College.

(b) The Commissioner of Police may by general or special order assign to the Principal of the Police Training College such powers and duties as he may deem fit for the proper administration of that College.

10. *Constitution of police districts, sub-divisions and police stations.*—Subject to the control of the Administrator, the Commissioner of Police shall—

- (a) constitute police districts within Delhi;
- (b) divide such police districts into police sub-divisions and specify the police stations comprised in each such sub-division; and
- (c) define the limits and extent of such police districts, police sub-divisions and police stations.

11. *Officers in charge of police districts, police sub-divisions and police stations.*—(1) Each police district shall be under the charge of a Deputy Commissioner of Police who may be assisted in the discharge of his duties by one or more Additional Deputy Commissioners of Police.

(2) Each police sub-division shall be under the charge of an Assistant Commissioner of Police and each police station shall be under the charge of an Inspector of Police.

12. *Appointment of subordinate ranks.*—Subject to such general or special orders in writing as the Administrator may make in this behalf,—

- (a) Inspectors of Police may be appointed by the Additional Commissioner of Police; and
- (b) Sub-Inspectors of Police and other officers of subordinate rank may be appointed by the Deputy Commissioners of Police, Additional Deputy Commissioners of Police, Principal of the Police Training College or of the Police

Training School, or any other police officer of equivalent rank.

13. *Certificate of appointment.*—(1) Every police officer of the rank of Inspector and below shall on enrolment receive a certificate of appointment.

(2) The certificate shall be issued under the seal of such officer, and shall be in such form, as the Administrator may, by general or special order, specify.

(3) A certificate of appointment shall become null and void when the person named therein ceases to belong to the Delhi police or shall remain inoperative during the period such person is suspended from the Delhi police.

14. *Effect of suspension of police officer.*—The powers, functions and privileges vested in a police officer shall remain suspended while such police officer is under suspension from office:

Provided that notwithstanding such suspension such person shall not cease to be a police officer and shall continue to be subject to the control of the same authorities to which he would have been subject if he had not been under suspension.

15. *General powers of Commissioner of Police.*—The Commissioner of Police shall direct and regulate all matters of arms, drill, exercise, observation of persons and events, mutual relations, distribution of duties, study of laws, orders and modes of proceedings and all matters of executive detail or the fulfilment of their duties by the police force under him.

16. *Power of Commissioner of Police to investigate and regulate matters of police accounts.*—The Commissioner of Police shall have the authority to investigate and regulate all matters of account connected with the Delhi police and all persons concerned shall be bound to give him reasonable aid and facilities in conducting such investigations and to conform to his orders consequent thereto.

17. *Special police officers.*—(1) The Commissioner of Police may, at any time, by a written order, signed by himself and sealed with his own seal, appoint any able bodied male person not less than eighteen years of age, whom he considers fit, to be a special police officer to assist the Delhi police on any occasion, when he has reason to apprehend the occurrence of any riot or grave disturbance of the peace in any area and he is of opinion that the ordinary police force is not sufficient for the protection of person, residing, and for the security of priority, within such area.

(2) The Commissioner of Police shall publish the names of special police officers appointed under this section in such manner as may be prescribed.

(3) Any person objecting to the appointment of any person as such special police officer may send his reasons for such objection to the Commissioner of Police within fifteen days of such appointment and the Commissioner may accept such objection and cancel the appointment of such officer or, after giving to the objector an opportunity to be heard, reject the objection.

(4) Every special police officer appointed under this section shall, on appointment,—

- (a) receive a certificate of appointment in such form as may be specified by the Administrator in this behalf;
- (b) have the same powers, privileges and immunities and perform the same duties and be subject to the same authorities as an ordinary police officer.

18. *Additional police officers.*—Where additional police officers are required to be deputed under section 38, section 39 or section 40 the Commissioner of Police may appoint such number of additional police officers as he considers necessary and every such additional police officer shall, on appointment,—

- (a) receive a certificate of appointment in such form as may be specified by the Administrator in this behalf;
- (b) have the same powers, privileges and immunities and perform such of the duties of a police officer as are specifically mentioned in the certificate; and
- (c) be subject to the same authorities as an ordinary police officer of the same or similar rank or grade.

CHAPTER III

REGULATION, CONTROL AND DISCIPLINE OF THE DELHI
POLICE

19. *Framing of regulations for administration of the police.*—Subject to the orders of the Administrator, the Commissioner of Police may make regulations not inconsistent with this Act or any other law for the time being in force—

- (a) regulating the inspection of the police force by his subordinates;
- (b) determining the description and quantity of arms, accoutrements, clothing and other necessities to be furnished to the police;
- (c) prescribing the places of residence of members of the police force;
- (d) for institution, management and regulation of any police fund for any purpose connected with police administration;
- (e) regulating the distribution, movements and location of the police;
- (f) assigning duties to police officers of all ranks and grades, and prescribing the manner in which, and the conditions subject to which they shall exercise and perform their respective powers and duties;
- (g) regulating the collection and communication by the police of intelligence and information;
- (h) generally, for the purpose of rendering the police efficient and preventing abuse or neglect of their duties.

20. *Commissioner of Police may call for returns.*—The Commissioner of Police may call for such returns, reports and statements on any subject connected with the prevention and detection of crime, the maintenance of order and the performance of the duties of his subordinates as such subordinates may be able to furnish to him.

21. *Powers of punishment.*—(1) Subject to the provisions of article 311 of the Constitution and the rules, the Commissioner of Police, Additional Commissioner of Police, Deputy Commissioner of Police, Additional Deputy Commissioner of Police, Principal of the Police Training College or of the Police Training School or any other officer of equivalent rank, may award to any police officer of subordinate rank any of the following punishments, namely:—

- (a) dismissal;
- (b) removal from service;
- (c) reduction in rank;
- (d) forfeiture of approved service;
- (e) reduction in pay;
- (f) withholding of increment; and
- (g) fine not exceeding one month's pay.

(2) Subject to the rules—

- (a) any police officer specified in sub-section (1) may award the punishment of censure to any police officer of subordinate rank;
- (b) the Assistant Commissioner of Police may award the punishment of censure to police officers of, or below, the rank of Sub-Inspectors of Police;
- (c) any police officer of, and above, the rank of Inspector may award punishment drill not exceeding fifteen days or fatigue duty or any other punitive duty to constables.

(3) Nothing in sub-section (1) or sub-section (2) shall affect any police officer's liability for prosecution and punishment for any offence committed by him.

(4) The Commissioner of Police, Additional Commissioner of Police, Deputy Commissioner of Police, Additional Deputy Commissioner of Police, Principal of the Police Training College or of the Police Training School, Assistant Commissioner of Police, or any other police officer of equivalent rank may suspend any police officer of subordinate rank who is reasonably suspected to be guilty of misconduct, pending an investigation or enquiry into such misconduct.

(5) An Inspector of Police may suspend any police officer below the rank of Sub-Inspector of Police, who is reasonably suspected to be guilty of misconduct, pending an investigation or enquiry into such misconduct.

22. *Procedure for awarding punishments.*—When any officer passes an order of awarding a punishment of dismissal, removal from service, reduction in rank, forfeiture of service, reduction in pay, withholding of increments or fine, he shall record such order or cause the same to be recorded together with the reasons therefor, in accordance with the rules.

23. *Appeal from orders of punishment.*—An appeal against any order of punishment passed against a police officer under section 21 or the rules thereunder (not being an order of punishment under clause (c) of sub-section (2) of that section) shall lie—

- (a) where the order is passed by the Commissioner of Police, to the Administrator;
- (b) where the order is passed by an Additional Commissioner of Police, to the Commissioner of Police;
- (c) where the order is passed by a Deputy Commissioner of Police, Additional Deputy Commissioner of Police, Principal of the Police Training College or School, Assistant Commissioner of Police or any other officer of equivalent rank, to the Additional Commissioner of Police.

24. *Police officers to be deemed to be always on duty and to be liable to employment in any part of Delhi.*—Every police officer not on leave or under suspension shall for all purposes of this Act be deemed to be always on duty and any police officer or any number or body of police officers allocated for duty in any part of Delhi may, if the Commissioner of Police so directs, at any time, be employed on police duty in any other part of Delhi for so long as the services of the police officer or number or body of police officers may be required in such other part of Delhi.

25. *Circumstances under which police officers of subordinate rank may resign.*—(1) Resignation of any police officer of subordinate rank may be accepted only by the officer empowered to appoint (the officer so empowered to appoint being hereafter in this section referred to as the appointing authority) officers of such subordinate rank.

(2) A police officer of subordinate rank who intends to resign from police service shall give to the appointing authority notice in writing to that effect and shall not be permitted to withdraw himself from duty unless he has been granted permission to resign by such authority and two months have elapsed from the date on which he tender his resignation:

Provided that the appointing authority may at his discretion, permit a Head Constable or a constable to withdraw himself from duty on his crediting to the Government two months pay in lieu of notice.

(3) A Head Constable or a constable who has agreed to serve for any specific period may not be permitted to resign before the expiry of that period.

(4) Inspectors, Sub-Inspectors or Assistant Sub-Inspectors of Police, whose appointments involve training at any Police Training College or Police Training School may not be permitted to resign within three years from the date of their successfully completing the training.

(5) No police officer of subordinate rank whose resignation has been accepted by the appointing authority shall be permitted to withdraw from duty until he has fully discharged all debts, due from him as such police officer to Government or to any police fund and has surrendered his certificate of appointment, arms, accoutrements, uniform and all other Government property in his possession and has also rendered a complete account of all Government money and property for which he is responsible.

(6) Notwithstanding anything contained in this section if any police officer of subordinate rank tenders his resignation on medical grounds and produces a certificate signed by the police surgeon or any other medical officer authorised by the Administrator in this behalf declaring him to be unfit by reason of disease or mental or physical incapacity for further service in the police, the appointing authority shall forthwith permit him to withdraw from duty on his discharging, or giving a satisfactory security for the payment of, any debt due from him as such police officer to Government or to any police fund:

Provided that the shall forthwith return the certificate of appointment, arms, accoutrements, uniform and all other Government property in his possession before he is permitted to withdraw from duty.

(7) If any such police officer of subordinate rank resigns or withdraws himself from the duties of his office in contravention of this section, he shall be liable on the orders of the appointing authority to forfeit all arrears of pay then due to him in addition to the penalty to which he may be liable under section 22 or any other law for the time being in force.

(8) Every such police officer on leaving the service in the Delhi police as aforesaid shall be given by the appointing authority a Discharge Certificate in such form as may be prescribed.

26. *Certificate, arms, etc., to be delivered by person ceasing to be a police officer.*—(1) Every person who for any reason ceases to be a police officer shall forthwith deliver to the officer empowered by the Commissioner of Police, the Additional Commissioner of Police, Deputy Commissioner of Police, Principal of the Police Training College or of the Police Training School, Additional Deputy Commissioner of Police or any other officer of equivalent rank to whom such officer is subordinate, to receive the same, his certificate of appointment and the arms, accoutrements, clothing and other accessories which have been provided to him for the performance of duties and functions connected with his office.

(2) (a) Any Metropolitan Magistrate and, for special reasons which shall be recorded in writing at the time, the Commissioner of Police, Additional Commissioner of Police, Principal of the Police Training College or of the Police Training School or a Deputy Commissioner, Additional Deputy Commissioner or any Assistant Commissioner of Police may issue a warrant to search for and seize wherever they be found, any certificate, arms, accoutrements, clothing or other accessories not delivered under sub-section (1).

(b) Every warrant so issued shall be executed by a police officer or, if the Metropolitan Magistrate or the police officer issuing the warrant so directs, by any other person in the same manner as if it were a warrant for a search issued under the Code of Criminal Procedure, 1973 (2 of 1974).

(3) Nothing in this section shall apply in relation to any article which under the orders of the Commissioner of Police has become the property of the person to whom the same was provided.

27. *Occupation of, and liability to vacate, premises provided for police officers.*—(1) A police officer occupying any premises provided by the Commissioner of Police for his residence shall—

(a) occupy the same subject to such terms and conditions as may, by general or special order, be specified by the Commissioner of Police; and

(b) notwithstanding anything contained in any law for the time being in force, vacate the same on his ceasing to be a police officer or whenever the Commissioner of Police or any officer authorised by the Administrator in this behalf considers it, for reasons to be recorded in writing, necessary and expedient to require him to do so.

(2) If any person who is bound or required under sub-section (1) to vacate any premises fails to do so, the Administrator or the officer authorised in this behalf by the Administrator may order such person to vacate the premises and may direct any police officer with such assistance as may be necessary to enter upon the premises and remove therefrom any person found therein and to take possession of the premises and deliver the same to any person specified in the direction.

CHAPTER IV

POLICE REGULATIONS

28. *Power to make regulations for regulating traffic and for preservation of order in public places, etc.*—(1) The Commissioner of Police may, by notification in the Official Gazette, make regulations to provide for all or any of the following matters, namely:—

- (a) licensing and controlling persons offering themselves for employment, outside railway stations and other places where passengers arrive, for the carriage of passengers' baggage and fixing and providing for the enforcement of a scale of charges for the labour of such persons so employed;
- (b) regulating traffic of all kinds in streets and other public places, and the use of streets and other public places by persons riding, driving, cycling, walking or leading or accompanying cattle, so as to prevent danger, obstruction or inconvenience to the public;
- (c) regulating the conditions under which vehicles may remain standing in streets and other public places, and the use of streets as halting places for vehicles or cattle;
- (d) specifying the number and position of lights to be used on vehicles in streets and the hours between which such lights should be used;
- (e) licensing controlling or prohibiting the erection, exhibition, fixation or retention of any sign, device or representation for the purpose of advertisement, which is visible against the sky from some point in any street and is hoisted or held aloft over any land, building or structure at such height as may be specified in the regulations, having regard to the traffic in the vicinity, and the likelihood of such sign, device or representation at that height being a distraction, or causing obstruction, to such traffic;
- (f) specifying certain hours of the day during which cattle shall not be driven, or, as the case may be driven only in accordance with such regulations, along the streets, or along certain specified streets;
- (g) regulating the leading, driving, conducting or conveying of any elephant or wild or dangerous animal through or in any street;
- (h) regulating and controlling the manner and mode of conveying timber, scaffold poles, ladders, iron girders, beams or bars, boilers or other unwieldy articles through the streets, and the route and hours for such conveyance;
- (i) licensing, controlling or, in order to prevent obstruction, inconvenience, annoyance, risk danger or damage to the residents or passengers in the vicinity, prohibiting the carrying in streets and public places of gunpowder or any other explosive substance;
- (j) prohibiting, except along certain specified streets and during specified hours and subject to such conditions as may be specified in that behalf, the exposure or movement in any street of persons or animals suffering from contagious or infectious diseases, the carcasses of animals or parts of such carcasses or corpses of persons deceased;
- (k) specifying certain hours of the day during which ordure or offensive matter or objects shall not be taken from or into houses or buildings in certain streets or conveyed through such streets except in accordance with such regulations;
- (l) setting apart places for slaughtering animals, the cleaning of carcasses or hides, the deposit of offensive matter and for obeying calls of nature;
- (m) in cases of existing or apprehended epidemic or infectious disease of men or animals, the cleanliness and disinfection of premises by the occupier thereof and residents therein and the segregation and management of the persons or animals diseased or supposed to be diseased, as may have been directed or approved by the Administrator, with a view to prevent the disease or check the spread thereof;
- (n) directing the closing or disuse, wholly or for certain purposes, or limiting to certain purposes only, the use of any source, supply or receptacle of water and providing against pollution of the same or of the water therein;
- (o) licensing, controlling or, in order to prevent obstruction, inconvenience, annoyance, risk, danger or

- damage to the residents or passengers in the vicinity, prohibiting the playing of music, the beating of drums, tom-toms or other instruments and the blowing or sounding of horns or other noisy instruments in or near streets or other public places;
- (p) regulating the conduct of or behaviour or action of persons constituting assemblies and processions on or along the streets and specifying in the case of processions, the routes by which, the order in which and the times at which, the same may pass;
- (q) prohibiting the hanging or placing of any cord or pole across a street or part thereof, or the making of a projection or structure so as to obstruct traffic or the free access of light and air;
- (r) prohibiting, except in accordance with such regulations, the placing of building materials or other articles or the fastening or detention of any horse or other animals in any street or public place;
- (s) licensing, controlling or, in order to prevent obstruction, inconvenience, annoyance, risk, danger or damage to the residents or passengers in the vicinity, prohibiting—
- (i) the illumination of streets and public places and the exteriors of building abutting thereon by persons other than servants of Government or Corporation or other Municipal officers duly authorised in that behalf,
 - (ii) the blasting of rock or making excavations in or near streets or public places,
 - (iii) the using of a loudspeaker in or near any public place or in any public entertainment;
- (t) closing certain streets or places temporarily, in cases of danger from ruinous buildings or other cause, with such exceptions as shall appear reasonable;
- (u) guarding against injury to person and property in the construction, repair and demolition of buildings, platforms and other structures from which danger may arise to passengers, neighbours or the public;
- (v) prohibiting the setting of fire to or burning of any straw or other matter, or lighting a bonfire or wantonly discharging a fire-arm or air-gun, or letting off or throwing a fire work or, sending up a fire balloon or rocket in or upon a street or within fifty feet of a street or building or the putting up of any post or other thing on the side of or across a street for the purpose of affixing thereto lamps or other contrivances for illumination except in accordance with regulations in this behalf;
- (w) regulating the hours during which and the manner in which any place for the disposal of the dead, any *dharmashala*, village-gate or other place of public resort may be used, so as to secure the equal and appropriate application of its advantages and accommodation and to maintain orderly conduct amongst those who resort thereto;
- (x) (i) licensing or controlling places of public amusement or public entertainment;
- (ii) prohibiting the keeping of places of public amusement or public entertainment or assembly, in order to prevent obstruction, inconvenience, annoyance, risk, danger or damage to the residents or passengers in the vicinity; and
 - (iii) regulating the means of entrance and exit at places of public amusement or public entertainment or assembly and providing for the maintenance of public order and the prevention of disturbance thereat;
- (y) (i) licensing or controlling in the interest of public order, decency or morality or in the interest of the general public (with such exceptions as may be specified in such regulations), musical, dancing, mimetic or theatrical or other performances for public amusement, including *melas*;
- (ii) regulating in the interest of public order, decency or morality or in the interest of the general public, the employment of artists and the conduct of the

artists and the audience at such performances:

- (iii) prior scrutiny of such performances and of the scripts in respect thereof, if any, and granting of suitability certificate therefor subject to conditions, if any, by a Board appointed by the Administrator for the purpose, either for the whole of Delhi or for the area concerned or by an Advisory Committee constituted by the Commissioner of Police (the members of the Board or the Advisory Committee being persons who in the opinion of the Administrator or, as the case may be the Commissioner, possess knowledge of, or experience in, literature, the theatre and other matters relevant to such scrutiny), provision for appeal against the order or decision of the Board or the Advisory Committee to an appellate authority, its appointment or constitution, its procedure and other matters ancillary thereto, and the fees (whether in the form of court-fee stamps or otherwise) to be charged for the scrutiny of such performances or scripts, for applications for obtaining such certificates and for issuing duplicates thereof and in respect of such appeals and any such performances and of the scripts in respect thereof granted suitability certificate by any State shall be exempted from this section;
- (iv) regulating the hours during which and the places at which such performances may be given;
- (z) regulating or prohibiting the sale of any ticket or pass for admission, by whatever name called, to a place of public amusement;
- (za) registration of eating houses, including granting a certificate of registration in each case, which shall be deemed to be a written permission required and obtained under this Act for keeping the eating house, and annual renewal of such registration within a specified period;
- (zb) prescribing the procedure in accordance with which any licence or permission sought to be obtained or required under this act should be applied for and fixing the fees to be charged for any such licence or permission:

Provided that nothing in this section and no licence or certificate of registration granted under any regulation made thereunder shall authorise any person to import, export, transport, manufacture, sell or possess any liquor, or intoxicating drug, in respect of which a licence, permit, pass or authorisation is required under any law relating to prohibition which is for the time being in force.

(2) The power to make regulations under clause (b) of sub-section (1) shall be subject to the control of the Administrator and the power to make regulations under the other clauses of that sub-section shall be subject to the previous sanction of the Administrator.

(3) The power of making regulations under this section shall be subject to the condition of the regulations being made, after previous publication and for the purposes of section 23 of the General Clauses Act, 1897 (10 of 1897) such regulations shall be deemed to be rules and every regulation made, under this section, shall also be published in the locality affected thereby by affixing copies thereof in conspicuous places near to the building, structure, work or place, as the case may be, to which the same specially relates or by proclaiming the same by the beating of drum or by advertising the same in such local newspapers in Hindi, Urdu and English, or in two or more of these languages, as the Commissioner of Police may deem fit, or by any two or more all these means, or by any other means he may think suitable:

Provided that any such regulation may be made without previous publication if the Commissioner of Police is satisfied that circumstances exist which render it necessary that such regulation should be brought into force at once.

(4) If any regulation made under this section relates to any matter with respect to which there is a provision in any law, rule or bye-law of the Corporation or of any other municipal or local authority in relation to public health, convenience or safety of the locality such regulation shall be subject to such law, rule or bye-law.

29. *Power to give directions to the public.*—The Commissioner of Police and, subject to the orders, if any, made by the Commissioner of Police, every police officer not inferior in rank to an Inspector, may from time to time as occasion may arise, but not so as to contravene any regulation made under section 28 or any law, rule, or bye-law referred to in sub-section (4) of that section, give all such orders either orally or in writing as may be necessary to—

- (a) direct the conduct of, and behaviour or action of persons constituting processions or assemblies on or along streets;
- (b) specify the routes by which and the times at which any such processions may pass or shall not pass;
- (c) prevent obstructions—
 - (i) on the occasion of all processions and assemblies; and
 - (ii) in the neighbourhood of all places of worship during the time of worship; and
 - (iii) in all cases when any street or public place or place of public resort may be thronged or liable to be obstructed;
- (d) keep order on, and in, all streets, and at, and within, public bathing and washing places, fairs, temples, mosques, gurdwaras, churches and all other places of public resort or public worship;
- (e) regulate and control the playing of music, singing or the beating of drums, tom-toms and other instruments and the blowing or sounding of horns or other noisy instruments in, and near, any street or public place;
- (f) regulate and control the use of loudspeakers in residential areas, streets, near any public places and places of public amusement or public entertainment; or
- (g) make reasonable orders consequential to, and in furtherance of, any order made under this section.

30. *Power to prohibit certain acts for prevention of disorder.*—(1) The Commissioner of Police may, whenever and for such time as he shall consider necessary for the preservation of public peace or public safety by notification publicly promulgated or addressed to individuals, prohibit, in relation to the whole of Delhi or any part thereof,—

- (a) the carrying of arms, cudgels, swords, spears, bludgeons, guns, knives, sticks or lathis, or any other article, which is capable of being used for causing physical violence;
- (b) the carrying of any corrosive substance or explosive;
- (c) the carrying, collection or preparation of stones or other missiles or instruments or means of casting or impelling missiles;
- (d) the exhibition of persons or corpses;
- (e) the public utterance of cries, singing of songs or playing of music; or
- (f) the delivery of harangues, the use of gestures or mimetic representations, and the preparation, exhibition or dissemination of pictures, symbols, placards or any other subject or thing which may, in the opinion of the Commissioner of Police, offend against decency or morality or undermine the security of the State.

(2) If any person goes armed with any such article as is referred to in clause (a) of sub-section (1) or carries any corrosive substance or explosive or missile or instrument in contravention of any prohibition under that sub-section, the article, corrosive substance or explosive or missile shall be liable to be seized from him by any police officer.

(3) The Commissioner of Police may, by notification publicly promulgated prohibit any assembly or procession whenever and for such time as he considers such prohibition to be necessary for the preservation of the public order.

(4) No notification promulgated under sub-section (3) shall remain in force for more than fifteen days from the promulgation thereof.

Provided that if the Administrator considers it necessary so to do for the preservation of the public order he may, by order published in the Official Gazette, direct that

such notification shall remain in force for such further period not exceeding six months from the date on which it would have, but for such order, expired as he may specify in the said order.

31. *Police to provide against disorder, etc., at places of public amusement or public assembly or meeting.*—(1) For the purpose of preventing serious disorder or breach of the law or manifest and imminent danger to the persons assembled at any place of public amusement or at any assembly or meeting to which the public are invited or which is open to the public, any police officer of the rank of Assistant Sub-Inspector and above, present at such place of public amusement, or such assembly or meeting, may subject to such rules, regulations and orders as may have been lawfully made give such reasonable directions as to the mode of admission of the public to, and for securing the peaceful and lawful conduct of the proceedings and the maintenance of the public safety at, such place of amusement or such assembly or meeting as he thinks necessary and all persons shall be bound to conform to every such reasonable direction.

(2) Every police officer shall have free access to every place of public amusement, assembly or meeting for the purpose of giving effect to the provisions of sub-section (1) and to any direction made thereunder.

32. *Power to prohibit etc., continuance of music, sound or noise.*—(1) If the Commissioner of Police is satisfied from the report of an officer-in-charge of a Police Station, or other information received by him, that it is necessary to do so in order to prevent annoyance, disturbance, discomfort or injury, or risk of annoyance, disturbance, discomfort or injury, to the public or to any person who dwells, or occupies property, in the vicinity, he may, by written order, issue such directions as he may consider necessary to any person for preventing, prohibiting, controlling or regulating—

- (a) the incidence or continuance in any street, open space or any other premises of—
 - (i) any vocal or instrumental music;
 - (ii) sounds caused by the playing, beating, clashing, blowing or use in any manner whatsoever of any instrument, appliance or apparatus or contrivance which is capable of producing or reproducing sound; or
 - (iii) use of loudspeaker or other apparatus for amplifying any musical or other sound at such pitch or volume as may cause disturbance to others, or
- (b) the carrying on, in any premises, of any trade, avocation or operation resulting in or attended with noise:

Provided that no directions shall be issued to any person under clause (a) without giving to such person an opportunity of being heard in the matter.

(2) The Commissioner of Police may, either on his own motion or on the application of any person aggrieved by an order made under sub-section (1), either rescind, modify or alter any such order:

Provided that before any such application is disposed of, the Commissioner of Police shall afford to the applicant an opportunity of appearing before him either in person or by counsel and showing cause against the order and shall, if he rejects any such application either wholly or in part, record the reasons for such rejection.

33. *Issue of order for prevention of riot, etc.*—(1) In order to prevent or suppress any riot or grave disturbance of peace, the Commissioner of Police may temporarily close or take possession of any building or other place and may exclude all or any persons therefrom, or may allow access thereto to such persons only and on such terms as he shall deem expedient and all persons concerned shall be bound to conduct themselves in accordance with such orders as the Commissioner of Police may make and notify in exercise of his powers under this section.

(2) If the lawful occupant of such building or place suffers any loss or injury by reason of the action taken under sub-section (1), he shall be entitled, on an application made therefore to the competent authority within one month from the date of such action, to receive

reasonable compensation for such loss or injury, unless such action was in the opinion of such competent authority rendered necessary either by the use to which such building or place was put, or intended to be put, or by the misconduct of persons having access thereto.

(3) In the event of any dispute in relation to the amount of compensation payable under sub-section (2) or the person to whom such amount shall be payable, the matter shall be referred by the competent authority to the District Collector whose decision thereon shall be final.

34. Maintenance of order at religious or ceremonial display, etc.—(1) In any case of an actual or intended religious or ceremonial or corporate display or exhibition or organised assemblage in any street or public place, as to which or the conduct of, or participation in, which, it shall appear to the competent authority that a dispute or contention exists, which is likely to lead to grave disturbance of the peace, the competent authority may give such orders as to the conduct of the persons concerned towards each other and towards the public as it shall deem necessary and reasonable under the circumstances, regard being had to the apparent legal rights and to any established practice of the parties and of the persons interested and all persons concerned shall obey such orders.

(2) Every such order shall be published in the locality or place wherein it is to operate.

(3) Every order under sub-section (1) shall be subject to any judgment, decree, injunction or order made by a court having jurisdiction, and shall be rescinded or altered on its being made to appear to the competent authority that such order is inconsistent with a judgment, decree, injunction or order of such court.

35. Commissioner of Police may take special measures to prevent outbreak of epidemic disease at fairs, etc.—

(1) Whenever it shall appear to the Commissioner of Police that any place in Delhi (being a place where on account of a pilgrimage, fair or other such occurrence, large bodies of persons have assembled or are likely to assemble) is visited or likely to be visited with an outbreak of any epidemic disease, he may in consultation with the Corporation or municipality within the local limits of the jurisdiction whereof such place is situated take such special measures and may by a public notice prescribe such regulations to be observed by residents of the said place and persons present thereat or repairing thereto or returning therefrom as he deems necessary to prevent the outbreak of such disease or the spread thereof.

(2) The expenses incurred by the Commissioner of Police in respect of the arrangements for sanitation and the preservation of order at or about the place of assembly referred to in sub-section (1) may be recovered from the Corporation or the municipality concerned.

36. Power to reserve street or other public place for public purpose and power to authorise erecting of barriers in streets.—(1) The Commissioner of Police may, by public notice, temporarily reserve for any public purpose any street or other public place and prohibit persons from entering the area so reserved, except on such condition as may be specified by him.

(2) The Commissioner of Police may, whenever in his opinion such action is necessary,—

(a) authorise such police officer as he thinks fit to erect barriers on any street for the purpose of stopping temporarily vehicles driven on such street so as to satisfy himself that the provisions of any law for the time being in force have not been contravened in respect of any such vehicle or by the driver or the person in charge of such vehicle; and

(b) make such orders as he deems fit for regulating the use of such barriers.

37. Power to make regulations prohibiting disposal of the dead except at places set apart.—(1) The Commissioner of Police may, from time to time, make regulations prohibiting the disposal of the dead, whether by cremation, burial or otherwise at places other than those set apart for such purpose:

Provided that no such regulations shall be made in respect of any area for which places have not been so set apart:

Provided further that the Commissioner of Police or any officer authorised by him in this behalf may, in his discretion, on an application made to him by any person, grant to such person permission to dispose of the corpse of any deceased person at any place other than a place so set apart, if in his opinion such disposal is not likely to cause obstruction to traffic or disturbance of the public peace or is not objectionable on any other reason.

(2) Any regulations made under sub-section (1) shall specify the places set apart for the disposal of the dead of different communities or sections of communities.

(3) All such regulations shall be deemed to be rules for the purposes of section 23 of the General Clauses Act, 1897 (10 of 1897), and shall be subject to the conditions of previous publication and the date to be specified under clause (3) of that section shall not be earlier than two months from the date on which the draft of the proposed regulations is published.

CHAPTER V

SPECIAL MEASURES FOR MAINTENANCE OF PUBLIC ORDER AND SECURITY OF STATE

38. Employment of additional police to keep peace.—

(1) The Commissioner of Police may, on the application of any person, depute any additional number of police to keep the peace, to preserve order, to enforce any of the provisions of this Act or of any other law in respect of any particular class or classes of offences or to perform any other duties imposed on the police at any place in Delhi.

(2) Such additional police shall be employed at the cost (which shall be determined by the Commissioner of Police in accordance with the rules made in this behalf) of the person making the application, but shall be subject to the orders of the police authorities and shall be employed for such period as the Commissioner of Police considers necessary.

(3) If the person upon whose application such additional police are employed shall at any time make a written requisition to the Commissioner of Police for the withdrawal of the said police he shall be received from the cost thereof at the expiration of such period not exceeding one week from the date of the delivery of such requisition as the Commissioner of Police shall determine.

(4) Where there is any dispute as to the amount to be paid by way of cost, the Commissioner of Police shall, on an application made in that behalf by the aggrieved party, refer the matter to the District Collector, whose decision thereon shall be final.

39. Employment of additional police in cases of special danger to public peace.—(1) If in the opinion of the Administrator any area in Delhi is in a disturbed or dangerous condition or the conduct of the inhabitants or of any particular section or class of the inhabitants of such area renders it expedient to employ temporarily additional police in the area, he may, by notification in the Official Gazette, specify the area (hereafter in this section referred to as the disturbed area) in which, and the period for which, the additional police shall be employed and thereupon the Commissioner of Police shall depute such number of additional police officers as he considers necessary, in the disturbed area:

Provided that the period so specified may be extended by the Administrator from time to time, if in his opinion it is necessary so to do in the interests of the public.

(2) On the issue of a notification under sub-section (1), the Administrator may require the District Collector, or any other authority specified by the Administrator, to recover, whether in whole or in part, the cost of such additional police generally from all persons who are inhabitants of the disturbed area or specially from any particular section or class of such persons, and in such proportion as the Administrator may direct.

(3) It shall be lawful for the Administrator to exempt, by order in writing, and for sufficient reasons, any person from liability to bear any portion of the cost of such additional police.

Explanation.—In this section and in section 41, the expression “inhabitants”, when used in relation to any disturbed area, includes persons who themselves or by

their agents or servants occupy or hold land or other immovable property within such area and landlords who themselves or by their agents or servants collect rent from holders or occupants of land in such area notwithstanding that they do not actually reside therein.

40. Employment of additional police at large work and apprehension regarding behaviour of employees.—(1) Whenever it appears to the Administrator or to the competent authority that—

- (a) any large work which is being carried on or any public amusement which is being conducted in any place is likely to impede the traffic or to attract a large number of people;
- (b) the behaviour or a reasonable apprehension of the behaviour of the persons employed on any railway, canal or other public work, or in or upon any manufactory or other commercial concern, under construction or in operation at any place necessitates the employment or additional police at such place,

the Administrator, or the competent authority, as the case may be, may depute such number of additional police to the said place for so long as the necessity to employ the additional police shall appear to the Administrator or the competent authority to continue.

(2) Such additional police shall be employed at the cost of the person by whom the work, public amusement, manufactory or concern is being constructed, conducted or carried on and the said person shall pay the costs therefor at such rates as the Administrator or the competent authority, as the case may be, shall from time to time require.

41. Compensation for injury caused by unlawful assembly how recoverable.—(1) When any loss or damage is caused to any property or when death results or grievous hurts is caused to any person or persons, by anything done in the prosecution of the common object of an unlawful assembly, the Administrator may, by notification in the Official Gazette, specify the area (hereafter in this section called the "disturbed area") in which, and the date on which or the period during which, such unlawful assembly was, in his opinion, held.

(2) On the issue of a notification under sub-section (1), the District Collector may, after such inquiry as he deems necessary, determine the amount of the compensation which, in his opinion, should be paid to any person or persons in respect of the loss or damage or death or grievous hurt aforesaid.

(3) The amount of the compensation shall be deemed to be a fine imposed under this section, and shall be payable by the inhabitants of the disturbed area.

(4) It shall be lawful for the District Collector to exempt, by order in writing and for sufficient reasons, any person from liability to pay any portion of the compensation amount.

42. Dispute in regard to cost of deputing additional police or compensation under section 41.—In the event of any dispute relating to the cost payable under section 39 or section 40 or the compensation determined under section 41 or the person or persons or the section or class of persons by whom or the proportion in which such cost or compensation should be paid, the matter be referred by the Collector, or the Administrator or the competent authority, as the case may be, on an application made in that behalf by the aggrieved party, to the Chief Metropolitan Magistrate, whose decision thereon shall be final.

43. Recovery of amount payable under section 38, 39, 40 or 41.—Any amount payable under section 38, section 39, section 40 or section 41 shall be recovered in the same manner as if it were an arrear of land revenue.

44. Collector to award compensation.—(1) Amounts payable under section 38, section 39, section 40 or section 41 shall, when recovered, be credited to the Government.

(2) The District Collector shall pay, from the amounts recovered by him as compensation payable under section 41, such amount as he deems just and proper by way of compensation to any person who has suffered loss or damage to property or grievous hurt or to the legal

heirs of any person who died, by reason of anything done in the prosecution of the common object of the unlawful assembly.

(3) No compensation shall be paid under this section, except when a claim has been made therefor within forty-five days from the date of the notification referred to in sub-section (1) of section 41 and the District Collector is satisfied that the claimant, where the claim is by the person who suffered the loss, damage or grievous hurt, or the deceased, where the claim is by the legal heirs of such deceased, has been free from blame in connection with the occurrence which led to the loss, damage, grievous hurt or death.

(4) The compensation payable to any person under sub-section (2) shall not in any way be capable of being assigned or charged or be liable to attachment or to pass any person other than the person entitled to it by operation of law, nor shall any claim be set off against the same.

(5) No civil suit shall be maintainable in respect of any loss, damage or grievous hurt for which compensation has been granted under this section.

45. Recovery of amounts payable under sections 39 and 41.—Without prejudice to the provisions contained in section 43, all amounts payable under section 39 or section 41 shall be recoverable in the manner provided in sections 421 and 422 of the Code of Criminal Procedure, 1973 (2 of 1974), as if each such amount were a fine imposed on an offender by a court.

46. Dispersal of gangs and bodies of persons.—Whenever it appears to the Commissioner of Police that the movement or encampment of any gang or body of persons in any part of Delhi is causing or is calculated to cause danger to person or property or alarm or reasonable suspicion that unlawful designs are entertained by such gang or body of persons or by members thereof, the Commissioner of Police may, by order addressed to the appearing to be the leaders or chief men of such gang or body of persons and published by announcement or beat of drums, or otherwise as the Commissioner of Police thinks fit direct the members of such gang or body of persons—

- (a) to so conduct themselves as shall seem necessary in order to prevent violence and alarm; or
- (b) to disperse and to remove themselves beyond the limits of Delhi, or any part thereof, within such time as the Commissioner of Police shall specify and not to enter Delhi or the part thereof, as the case may be, from which they were directed to remove themselves.

47. Removal of persons about to commit offences.—Whenever it appears to the Commissioner of Police—

- (a) that the movements or acts of any person are causing or are calculated to cause alarm, danger or harm to person or property;
- (b) that there are reasonable grounds for believing that such person is engaged or is about to be engaged in the commission of an offence involving force or violence or an offence punishable under Chapter XII, Chapter XVI, Chapter XVII or Chapter XXII of the Indian Penal Code (45 of 1860) or under section 290 or sections 489A to 489E (both inclusive) of that Code or in the abetment of any such offence; or
- (c) that such person—
 - (i) is so desperate and dangerous as to render his being at large in Delhi or in any part thereof hazardous to the community; or
 - (ii) has been found habitually intimidating other persons by acts of violence or by show of force; or
 - (iii) habitually commits affray or breach of peace or riot, or habitually makes forcible collection of subscription or threatens people for illegal pecuniary gain for himself or for others; or
 - (iv) has been habitually passing indecent remarks on women and girls, or teasing them by overtures;

and that in the opinion of the Commissioner of Police witnesses are not willing to come forward to give evidence in public against such person by reason of apprehension on their part as regards the safety of their person

or property, the Commissioner of Police may, by order in writing duly served on such person, or by beat of drum or otherwise as he thinks fit, direct such person to so conduct himself as shall seem necessary in order to prevent violence and alarm or to remove himself outside Delhi or any part thereof, by such route and within such time as the Commissioner of Police may specify and not to enter or return to Delhi or part thereof, as the case may be, from which he was directed to remove himself.

Explanation.—A person who during a period within one year immediately preceding the commencement of an action under this section has been found on not less than three occasions to have committed or to have been involved in any of the acts referred to in this section shall be deemed to have habitually committed that act.

48. Removal of persons convicted of certain offences.—If a person has been convicted—

- (a) of an offence under Chapter XII, Chapter XVI or Chapter XVII of the Indian Penal Code; (45 of 1860) or
- (b) of an offence under section 3 or section 4 of the Delhi Public Gambling Act, 1955 (Delhi Act 9 of 1955), or under section 12 of that Act in so far as it relates to satta gambling or on two or more occasions under any other provision of that Act (including section 12 of that Act in so far as it does not relate to satta gambling); or
- (c) of any offence under the Suppression of Immoral Traffic in Women and Girls Act, 1956 (104 of 1956); or
- (d) of any offence under section 25, section 26, section 27, section 28 or section 29 of the Arms Act, 1959 (54 of 1959); or
- (e) of any offence under section 135 of the Customs Act, 1962 (52 of 1962); or
- (f) of any offence under section 61, section 63 or section 66 of the Punjab Excise Act, 1955, (Punjab Act No. 18 of 1955), as in force in Delhi; or
- (g) on two or more occasions of an offence under—
 - (i) the Opium Act, 1878 (1 of 1878); or
 - (ii) the Dangerous Drugs Act, 1930 (2 of 1930); or
 - (iii) the Drugs and Cosmetics Act, 1940 (23 of 1940); or
 - (iv) section 11 of the Bombay Prevention of Begging Act, 1959 (Bombay Act No. 10 of 1960), as in force in Delhi; or
- (h) on three or more occasions of an offence under section 105 or section 107 of this Act,

the Commissioner of Police may, if he has reason to believe that such person is likely again to engage himself in the commission of any of the offences referred to in this section, by order in writing, direct such person to remove himself beyond the limits of Delhi or any part thereof, by such route and within such time as the Commissioner of Police may specify and not to enter or return to Delhi or any part thereof, as the case may be, from which he was directed to remove himself.

49. Period of operation of orders under section 46, 47 or 48.—Any direction made under section 46, section 47 or section 48 not to enter Delhi or any part thereof, shall be for such period as may be specified therein, and shall in no case exceed a period of two years from the date on which it was made.

50. Hearing to be given before order under section 46, 47 or 48 is passed.—(1) Before an order under section 46, section 47 or section 48 is made against any person, the Commissioner of Police shall by notice in writing inform him of the general nature of the material allegations against him and give him a reasonable opportunity of tendering an explanation regarding them.

(2) If such person makes an application for the examination of any witness to be produced by him, the Commissioner of Police shall grant such application and examine such witness, unless for reasons to be recorded in writing, the Commissioner of Police is of opinion that such application is made for the purpose of causing vexation or delay.

(3) Any written explanation put in by such person shall be filed with the record of the case.

(4) Such person shall be entitled to be represented in the proceeding before the Commissioner of Police by a counsel.

(5) (a) The Commissioner of Police may for the purpose of securing the attendance of any person against whom any order is proposed to be made under section 46, section 47 or section 48 require such person, by order in writing, to appear before him and to furnish a security bond with or without sureties for attendance during the inquiry.

(b) The provisions of sections 119 to 124 (both inclusive) of the Code of Criminal Procedure, 1973 (2 of 1974), shall, so far as may be, apply in relation to the order under clause (a) to furnish security bond.

(6) Without prejudice to the foregoing provisions, the Commissioner of Police, while issuing notice to any person under sub-section (1) may issue a warrant for his arrest and the provisions of sections 70 to 89 (both inclusive) of the Code of Criminal Procedure, 1973 (2 of 1974), shall, so far as may be, apply in relation to such warrant.

(7) The provisions of section 445, section 446, section 447 or section 448 of the Code of Criminal Procedure 1973 (2 of 1974), shall, so far as may be, apply in relation to all bonds executed under this section.

51. Appeal against orders under Section 46, 47 or 48.—(1) Any person aggrieved by an order made under section 46, section 47 or section 48 may appeal to the Administrator within thirty days from the date of the service of such order on him.

(2) An appeal under this section be preferred in duplicate in the form of a memorandum, setting forth concisely the grounds of objection to the order appealed against, and shall be accompanied by that order or a certified copy thereof.

(3) On receipt of such appeal, the Administrator may, after giving a reasonable opportunity to the appellant to be heard either personally or by a counsel and after further inquiry, if any, as he may deem necessary, confirm, vary or set aside the order appealed against.

Provided that the order appealed against shall remain in force pending the disposal of the appeal, unless the Administrator otherwise directs.

(4) The Administrator shall make every endeavour to dispose of an appeal under this section within a period of three months from the date of receipt of such appeal.

(5) In calculating the period of thirty days provided for an appeal under this section, the time taken for obtaining a certified copy of the order appealed against, shall be excluded.

52. Finality of order in certain cases.—An order passed by the Commissioner of Police under section 46, section 47 or section 48 or the Administrator under section 51 shall not be called in question in any court except on the ground—

(a) that the Commissioner of Police or the Administrator, as the case may be, had not followed the procedure laid down in sub-section (1) sub-section (2) or sub-section (4) of section 50 or in section 51, as the case may be; or

(b) that there was no material before the Commissioner of Police or the Administrator, as the case may be, upon which he could have based his order; or

(c) in the case of an order made under section 47 or an order in appeal therefrom to the Administrator under section 51, the Commissioner of Police or the Administrator, as the case may be, was not of the opinion that witnesses were unwilling to come forward to give evidence in public against the person against whom such order has been made.

53. Procedure on failure of person to leave the area and his entry therein after removal.—If a person to whom a direction has been issued under section 46, section 47 or section 48 to remove himself from Delhi or any part thereof—

(a) fails to remove himself as directed; or

(b) having so removed himself enters Delhi or any

part thereof within the period specified in the order, otherwise than with the permission in writing of the Commissioner of Police under section 54,

the Commissioner of Police may cause him to be arrested and removed in police custody to such place outside Delhi or any part thereof as the Commissioner of Police may in each case specify.

54. *Temporary permission to enter and consequences of non-observance of conditions of such permission.*—(1) The Commissioner of Police or any other police officer specially empowered by the Administrator in that behalf may, by order in writing, permit any person, in respect of whom an order under section 45, section 47 or section 48 has been made, to return to Delhi or any part thereof, from which he was directed to remove himself, for such temporary period and subject to such conditions as may be specified in such order and may require him to execute a bond with or without surety for the due observance of the conditions imposed.

(2) The Commissioner of Police may at any time revoke any such permission.

(3) Any person who with such permission returns to Delhi or any part thereof shall observe the conditions imposed, and at the expiry of the temporary period for which he was permitted to return, or on the revocation of such permission before the expiry of such temporary period, shall remove himself outside Delhi or any part thereof, as the case may be, and shall not return thereto within the unexpired portion of the period specified in the original order made under section 46, section 47 or section 48 without a fresh permission.

(4) If such person fails to observe any of the conditions imposed, or to remove himself accordingly or having so removed himself enters or returns to Delhi or any part thereof, as the case may be, without fresh permission, the Commissioner of Police may cause him to be arrested and removed in police custody to such place outside Delhi or part thereof as the Commissioner of Police may in each case specify.

55. *Taking measurements and photographs, etc., of persons against whom an order under section 46, 47 or 48 is made.*—Every person against whom an order has been made under section 46, section 47 or section 48 shall, if so required by the Commissioner of Police, allow his measurements and photograph to be taken by a police officer in the prescribed manner.

56. *Resistance to the taking of measurements, etc.*—(1) If any person as aforesaid when required to allow his measurements or photograph to be taken resists or refuses to allow the taking of such measurements or photograph, it shall be lawful to use all necessary means to secure the taking thereof.

(2) Resistance to or refusal to allow the taking of measurements or photographs under this Act shall be deemed to be an offence under section 186 of the Indian Penal Code (45 of 1860).

(3) Where an order under section 46, section 47 or section 48 is set aside in appeal, all measurements and photographs (including negatives) taken under this section shall be destroyed or made over to the person against whom such order is made.

57. *Banning of use of dress, etc., resembling uniform of armed forces.*—(1) If the Administrator is satisfied that the wearing in public, by any member of any body, or association of organisation, of any dress or article of apparel resembling any uniform required to be worn by a member of the Armed Forces of the Union or by a member of any police force or of any force constituted by or under any law for the time being in force, is likely to prejudice the security of the State or the maintenance of public order, he may, by a general or special order, prohibit or restrict the wearing, or display, in public of any such dress or article of apparel by any member of such body or association or organisation.

(2) Every general or special order under sub-section (1) shall be published in the manner prescribed for the publication of a public notice under section 142.

Explanation.—For the purposes of this section a dress or an article of apparel shall be deemed to be worn or displayed in public if it is worn or displayed in any place to which the public have access.

58. *Constitution of Defence Societies.*—(1) For the protection of persons, the security of property and the public safety in any locality the Commissioner of Police may constitute voluntary bodies (hereafter in this section referred to as Defence Societies) in the prescribed manner.

(2) The Commissioner of Police or any officer of a Defence Society may at any time call up officers subordinate to him or any member of a Defence Society for training or to discharge any of the duties under this Act assigned to them.

(3) Every officer or member of a Defence Society shall—

(a) on appointment receive a certificate in such form as may be specified or approved by the Administrator in this behalf; and

(b) when called up for duty have the same powers, privileges and protection as are vested in a police officer appointed under this Act.

(4) Notwithstanding anything contained in any law for the time being in force, an officer or member of a Defence Society shall not be disqualified for being chosen as, or for being a member of—

(a) the Delhi Metropolitan Council or the Municipal Corporation of Delhi; or

(b) any other local authority,

by reason of the fact that he is a member or officer of such Society.

CHAPTER VI

EXECUTIVE DUTIES AND POWERS OF POLICE OFFICERS

59. *Duty of police officer to enforce provisions of the Act.*—(1) It shall be the duty of every police officer to ensure compliance with the provisions of this Act or any rule, regulation or order made thereunder and for that purpose such police officer may,—

(a) warn persons who from ignorance fail to comply with any provision of this Act or any rule, regulation or order made thereunder;

(b) require any person acting or about to act contrary to any provision of this Act or rule, regulation or order made thereunder, to desist from so doing;

(c) subject to the provisions of sub-sections (2) and (3), arrest any person contravening any provision of this Act or any rule, regulation or order made thereunder, where such contravention is an offence punishable under this Act;

(d) seize any object used, or about to be used, in contravening, or in contravention of, the provisions of this Act or any rule, regulation or order made thereunder, where such contravention is an offence punishable under this Act.

(2) A police officer shall not arrest any person under clause (c) of sub-section (1) without a warrant issued by a Metropolitan Magistrate, unless such person—

(a) has contravened any regulation made under clause (b) of sub-section (1) of section 28;

(b) has contravened any order or notification made under section 29, sub-section (1) or sub-section (2) of section 30, section 32, section 47, section 48 or sub-section (1) of section 57;

(c) commits in the presence of such police officer an offence punishable under section 97, sub-section (1) of section 108, clause (a), (b) or (c) of section 110 or sub-section (2) of section 113 in respect of the contravention of any order made under section 33 or section 34;

(d) has committed, or is reasonably suspected to have committed, an offence punishable under section 100 in relation to any dwelling house, private premises or any other land or ground attached thereto;

Provided that the person in possession or having charge of that dwelling house, private premises or land or ground complains of the commission of such offence;

(e) has committed, or is reasonably suspected to have committed an offence punishable under section 101, section 102 or clause (c) of sub-section (2) of section 113;

- (f) commits in his presence in any street or public place any non-cognizable offence punishable under this Act or any rule or regulation made thereunder if such person—
- (i) after being warned by the police officer persists in committing such offence; or
 - (ii) refuses to accompany the police officer to a police station on being required so to do.
- (3) The Commissioner of Police or any other police officer especially empowered in this behalf by the Commissioner of Police may arrest without a warrant issued by a Metropolitan Magistrate any person who has committed an offence punishable under section 92.
60. *Other duties of a police officer.*—It shall be the duty of every police officer—
- (a) promptly to serve every summons and obey and execute every warrant or other order lawfully issued to him by the competent authority and to comply with all lawful commands of his superior;
 - (b) to the best of his ability, to obtain intelligence concerning the commission of cognizable offences or designs to commit such offences and to lay such information and to take such other steps consistent with law and with the orders of his superiors as shall be best calculated to bring offenders to justice and to prevent the commission of cognizable and, within his view, of non-cognizable offences;
 - (c) to prevent to the best of his ability the commission of public nuisances;
 - (d) to apprehend without unreasonable delay all persons whom he is legally authorised to apprehend and for whose apprehension there is sufficient reason;
 - (e) to aid any other police officer when called upon by such other police officer or in the case of need in the discharge of the duty of such other police officer, in such ways as would be lawful and reasonable on the part of the officer aided;
 - (f) to prevent the breach of the public peace;
 - (g) to afford every assistance within his power to disabled or helpless persons in the streets;
 - (h) to take charge of intoxicated persons and of lunatics at large, who appear dangerous or incapable of taking care of themselves;
 - (i) to take prompt measures to procure necessary help for any person under arrest or in custody, who is wounded or sick and whilst guarding or conducting any such person to have due regard to his condition;
 - (j) to arrange for the proper sustenance and shelter of every person who is under arrest or in custody;
 - (k) in conducting searches, to refrain from needless rudeness and the causing of unnecessary annoyance;
 - (l) in dealing with women and children to act with strict regard to decency and with reasonable gentleness;
 - (m) to use his best endeavours to prevent any loss or damage by fire;
 - (n) to use his best endeavours to avert any accident or danger to the public;
 - (o) to regulate and control the traffic in the streets, to prevent obstructions therein and to the best of his ability, to prevent the contravention of any rule, regulation or order made under this Act or any other law in force for observance by the public in or near the streets;
 - (p) to keep order in the streets and at and within public bathing and washing places, fairs, temples and all other places of public resort and in the neighbourhood of places of public worship;
 - (q) to regulate resort to public bathing and washing places and all other places of public resort, to prevent overcrowding there and to the best of his ability, to prevent the contravention of any regulation or order lawfully made for observance by the public at such place; and
 - (r) to discharge such other duties as are imposed upon him by any law for the time being in force.

61. *Power to enter places of public resort.*—Subject to the provisions of this Act and the rules, regulations and orders made thereunder, every police officer may, for the purpose of discharging any of the duties referred to in section 59 or section 60 enter without a warrant and and inspect any place of public resort which he has reason to believe is used as a place for the storing, sale or consumption of intoxicating drinks or narcotics, or a place for resort of loose and disorderly characters.

62. *Power to search suspected persons in street, etc.*—When in a street or a place of public resort a person is in possession or suspected to be in possession of any article which a police officer in good faith suspects to be stolen property, such police officer may search such person and may require an account in relation to any article found on his possession and should the account given by the possessor be manifestly false or suspicious, may detain such article after giving to the possessor a receipt in the prescribed form and report the facts to a Metropolitan Magistrate who shall thereupon proceed according to the provisions of sections 457, 458 and 459 of the Code of Criminal Procedure, 1973 (2 of 1974).

63. *Emergency duties of police.*—(1) The Administrator may, by notification in the Official Gazette, declare any specified service to be an essential service to the community.

(2) A declaration made under sub-section (1) shall remain in force for one month in the first instance, but may be extended from time to time by a like notification.

(3) Upon a declaration being made under sub-section (1) and so long as it remains in force, it shall be the duty of every police officer to obey any order given by any superior officer in relation to any employment in connection with the service specified in the declaration.

64. *Superior police officer may himself perform duties imposed on a subordinate officer.*—A police officer of a rank superior to that of a constable may perform any duty assigned by law or by a lawful order to any officer subordinate to him, and in the case of any duty imposed on such subordinate, a superior may aid, supplement, supersede, or prevent any action of such subordinate by his own action or that of any person lawfully acting under his command or authority, whenever the same shall appear necessary or expedient for giving more complete or convenient effect to the law or for avoiding any infringement thereof.

65. *Persons bound to comply with the reasonable directions of police officer.*—(1) All persons shall be bound to comply with the reasonable directions given by a police officer in the discharge of his duties under this Act.

(2) Where any person resists, refuses or fails to comply with any direction referred to in sub-section (1), a police officer may, without prejudice to any other action that he may take under any other provision of this Act or any other law for the time being in force, remove such person and either produce him before a Metropolitan Magistrate or, in trivial cases, release him when the occasion which necessitated the removal has ceased to exist:

Provided that the person so removed shall in all cases be produced before the Metropolitan Magistrate or released, as the case may be, within a period of twenty-four hours of such removal.

CHAPTER VII

POWERS IN RELATION TO UNCLAIMED PROPERTY

66. *Police to take charge of unclaimed property.*—(1) It shall be the duty of every police officer to take temporary charge—

- (a) of all unclaimed property found by, or made to, him; and
- (b) of all property found lying in any public street, if the owner or person in charge of such property, on being directed to remove the same, refuses or fails to do so.

(2) The police officer taking charge of the property under sub-section (1) shall furnish an inventory thereof to the Commissioner of Police.

67. *Procedure for disposal of property taken charge of under section 66.*—(1) Where any property has been taken charge of under sub-section (1) of section 66, the Commissioner of Police shall issue a proclamation specifying the articles of which such property consists and

requiring that any person who may have a claim thereto shall appear before him or some other officer whom he authorises in this behalf and establish his claim within six months from the date of such proclamation.

(2) If the property, or any part thereof, is subject to speedy and natural decay or consists of livestock or if the property appears to be of the value of less than fifty rupees, it may forthwith be sold by auction under the orders of the Commissioner of Police and the net proceeds of such sale shall be dealt with in the same manner as is hereinafter provided for the disposal of the said property.

(3) Where any person who has a claim to the property is required by the proclamation under sub-section (1) to appear before the other officer authorised by the Commissioner of Police in that behalf and establish his claim, such officer shall forward the record of the proceedings before him with his findings thereon to the Commissioner of Police.

68. *Delivery of property to person entitled.*—(1) The Commissioner of Police on being satisfied of the title of any claimant to the possession or administration of the property specified in the proclamation issued under sub-section (1) of section 67 order the same to be delivered to him, after deduction or payment of the expenses incurred by the Delhi police in the seizure and detention thereof.

(2) The Commissioner of Police may, at his discretion, before making any order under sub-section (1), take such security as he may think proper from the person to whom the said property is to be delivered and nothing hereinbefore contained shall affect the right of any person to recover the whole or any part of the same from the person to whom it may have been delivered pursuant to such order.

69. *In default of claim, property to be at disposal of Government.*—(1) If no person establishes his claim to such property within the period specified in the proclamation, the property, or such part thereof as has not already been sold under sub-section (2) of section 67, may be sold by auction under the orders of the Commissioner of Police and the proceeds thereof shall be credited to the Government.

(2) If any claim is made to any proceeds credited under sub-section (1) to the Government and if such claim is established, whether wholly or to any extent, to the satisfaction of the prescribed authority, the Administrator shall pay to the claimant the amount determined in that behalf by the prescribed authority.

(3) The form and manner in which claims may be made under sub-section (2) and the procedure for dealing with such claims and all other matters connected therewith shall be such as may be prescribed.

CHAPTER VIII

SPECIAL PROVISIONS RELATING TO EXERCISE OF POWERS UNDER THE CODE OF CRIMINAL PROCEDURE, 1973

70. *Power of Central Government to authorise Commissioner of Police and certain other officers to exercise powers of District Magistrates and Executive Magistrates under the Code of Criminal Procedure, 1973.*—(1) The Central Government may, by notification in the Official Gazette and subject to such conditions and limitations as may be specified therein, empower—

(a) the Commissioner of Police to exercise and perform in relation to Delhi the powers and duties of Executive Magistrate and of a District Magistrate under such of the provisions of the Code of Criminal Procedure, 1973 (2 of 1974), as may be specified in the notification;

(b) any officer subordinate to the Commissioner of Police (not being an officer below the rank of an Assistant Commissioner of Police) to exercise and perform in relation to such areas in Delhi as may be specified in the notification the powers and duties of an Executive Magistrate under such of the provisions of the said Code as may be specified in the notification.

(2) Every officer subordinate to the Commissioner of Police shall, in the exercise and performance of any powers and duties which he is empowered to exercise or

perform under sub-section (1), be subject to the general control of the Commissioner of Police in the same manner and to the same extent as an Executive Magistrate appointed under section 20 of the said Code would be subject to the general control of the District Magistrate appointed under that section.

(3) The Commissioner of Police or any officer subordinate to him shall not be subject in the exercise and performance of any powers and duties which he is empowered to exercise and perform under sub-section (1), to the general control of the District Magistrate appointed under section 20 of the said Code.

(4) The provisions of this section shall have effect notwithstanding anything contained in the said Code.

71. *Notifications under section 70 to be laid before Parliament.*—Every notification made by the Central Government under section 70 shall be laid, as soon as it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or both Houses agree that the notification should not be made, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

72. *References to Judicial Magistrate of the first class in sections 108, 109 and 110 of the Code of Criminal Procedure, 1973 not to be construed as references to an Executive Magistrate.*—(1) The notification of the Government of India in the Ministry of Home Affairs No. S.O. 224(E), dated the 30th March, 1974, under section 478 of the Code of Criminal Procedure, 1973 (2 of 1974), shall cease to have effect and accordingly references to a Judicial Magistrate of the First Class in sections 108, 109 and 110 of the said Code shall cease to be construed in respect of Delhi as references to an Executive Magistrate.

(2) All proceedings, under the said sections, pending before any Executive Magistrate immediately before the cesser of operation under sub-section (1) of the notification referred to therein shall, upon such cesser of operation, stand transferred to the Metropolitan Magistrate who would have jurisdiction if such proceedings had been instituted after such cesser of operation.

(3) Subject to the provisions of sub-section (2), the provisions of section 6 of the General Clauses Act, 1897 (10 of 1897), shall apply to the cesser of operation of the notification referred to in sub-section (1) as if such cesser of operation of the notification were a repeal of an enactment by a Central Act.

CHAPTER IX

SPECIAL POWERS UNDER THE PREVENTION OF CRUELTY TO ANIMALS ACT, 1960

73. *Powers with regard to offences under Act 59 of 1960.*—(1) When in respect of an animal an offence punishable under sub-section (1) of section 11 or section 11 or section 12 of the Prevention of Cruelty to Animals Act, 1960 has been committed, or when there is a reasonable ground for suspecting that such offence has been committed, a police officer may—

(a) take the animal to the Metropolitan Magistrate, or
(b) if the accused person so requires, take the animal to a veterinary officer specified by general or special order by the Administrator in this behalf;

Provided that the police officer may, instead of taking the animal to a veterinary officer, take the animal for detention in a dispensary, or in any suitable place approved by the Administrator by general or special order and the animal shall thereupon be detained there until its production before Metropolitan Magistrate, or

(c) take the animal to an infirmary appointed under section 35 of the said Act for treatment and

detention therein, pending direction of a Magistrate under sub-section (2) of that section, or

- (d) when the animal is in such physical condition that it cannot be taken to a veterinary officer or a Metropolitan Magistrate, draw up a report of the condition of the animal in the presence of two or more respectable persons describing such wound, sores, fractures, bruises, or other marks of injury as may be found on the body of the animal;

Provided that the police officer may take the animal for detention in a dispensary or any suitable place approved by the Administrator by general or special order and the animal shall thereupon be detained there until its production before a Metropolitan Magistrate.

(2) Where an animal is detained in a dispensary, infirmary or other place under sub-section (1), the animal shall be produced before a Metropolitan Magistrate with the least possible delay and in any case within a period not exceeding three days from the date on which it was so detained.

74. *Powers of Metropolitan Magistrate to return animal to person from whose possession it was taken.*—When the animal is brought before a Metropolitan Magistrate under section 73, the Magistrate may direct the animal to be returned to the person from whose possession it was taken on such person giving security to the satisfaction of the Metropolitan Magistrate binding himself to produce the animal when required or may direct that the animal shall be sent for treatment and care to an infirmary and be detained there as provided in section 35 of the Prevention of Cruelty to Animals Act, 1960 (59 of 1960) or may make such order as he thinks fit regarding the disposal or custody or production of the animal.

75. *Veterinary officer to examine the animal.*—The veterinary officer before whom an animal is brought under section 73 shall with all convenient speed examine the same and draw up a report of such examination and a copy of the report of such examination shall be delivered free of charge to the accused person if he applies for it.

76. *Animal to be dealt with under Act 59 of 1960.*—When under section 73, a police officer takes an animal for detention in a dispensary or infirmary or other place before its production before a Metropolitan Magistrate or a Metropolitan Magistrate directs its further detention in an infirmary, sub-sections (3) to (7) (both inclusive) of section 35 of the Prevention of Cruelty to Animals Act, 1960 shall, as far as may be, apply in relation to the detention of the animal (including the cost of transport, maintenance and treatment of the animal) in the dispensary, infirmary or other place.

77. *Power of police officer to unsaddle animal or to unload it.*—When a police officer in good faith suspects that any animal being employed in any work or labour is, by reason of any sore, unfit to be so employed, he may require the person in charge of such animal to unsaddle or unload it for the purpose of ascertaining whether any sore exists and, if a person refuses to do so, such police officer may himself unsaddle or unload the animal or may cause the same to be unsaddled or unloaded.

78. *Arrest without warrant in case of certain offences under Act 59 of 1960.*—Any police officer may arrest, without a warrant from a Magistrate, any person committing in his presence any offence punishable under clauses (a) to (m) (both inclusive) of sub-section (1) of section 11 of the Prevention of Cruelty to Animals Act, 1960.

79. *Provisions of Chapter to be in addition to the provisions of Act 59 of 1960.*—The provisions of this Chapter shall be in addition to, and not in derogation of, the provisions of the Prevention of Cruelty to Animals Act, 1960.

CHAPTER X

OFFENCES AND PUNISHMENT

80. *Disregarding the rules of the road.*—No person shall—

- (a) when driving a vehicle along a street (except in cases of actual necessity or of some other sufficient reason for deviation) fail to keep on the left side of such street and when passing

any other vehicle proceeding in the same direction fail to keep on the right side of such vehicle; or

- (b) leave in any street or public place insufficiently tended or secured any animal or vehicle.

81. *Causing obstruction or mischief by animal.*—No person shall cause obstruction, damage, injury, danger, alarm or mischief in any street or public place—

- (i) by misbehaviour, negligence or ill-usage in the driving, management, treatment or care of any animal or vehicle; or
(ii) by driving any vehicle or animal laden with timber, poles or other unwieldy articles through a street or public place contrary to any regulation made in that behalf.

82. *Exposing animal for hire, sale, etc.*—No person shall in any street or public place expose for hire or sale any animal or vehicle, clean any furniture or vehicle, or clean or groom any horse or other animal except at such times and places as the competent authority permits, or shall train or break in any horse or other animal or make any vehicle or any part of a vehicle or (except when as a result of any accident repairing on the spot is unavoidable) repair any vehicle or part of a vehicle, or carry on therein any manufacture or operation so as to be a serious impediment to traffic or serious annoyance to residents in the vicinity or to the public.

83. *Causing any obstruction in a street.*—No person shall cause obstruction in any street or public place—

- (a) by allowing any animal or vehicle, which has to be loaded or unloaded, or take up or set down passengers, to remain or stand in the street or the public place longer than may be necessary for such purpose; or
(b) by leaving any vehicle standing or fastening any cattle in the street or the public place; or
(c) by using any part of a street or public place as a halting place for vehicles or cattle; or
(d) by leaving any box, bale, package or other things whatsoever in or upon a street or an unreasonable length of time or contrary to any regulation; or
(e) by exposing anything for sale or setting out anything for sale in or upon any stall, booth, board, cask, basket or in any other way whatsoever.

84. *Obstructing a footway.*—No person shall drive, ride, load, propel or leave on any footway any animal or vehicle other than a perambulator or fasten any animal in such a way that the animal can stand across or upon such footway.

85. *Causing obstruction and annoyance by performances, etc.*—No person shall, in contravention of any regulation made by the Commissioner of Police,—

- (a) exhibit any mimetic, musical or other performances of such a nature as may attract crowds; or

(b) carry or place bulky advertisements, pictures, figures or emblems in any street or public place, whereby any obstruction to passengers or annoyance to the residents in the vicinity may be occasioned.

86. *Doing offensive acts in or near a street or public place.*—No person shall slaughter any animal, clean a carcass or hide, or bathe or wash his person in or near to and within sight of a street or public place, except at a place set apart for the purpose, so as to cause annoyance to the neighbouring residents or to passers-by.

87. *Letting loose horse, etc., and suffering ferocious dogs to be at large.*—No person shall in any street or place—

- (a) negligently let loose any horse or other animal, so as to cause danger, injury, alarm or annoyance; or
(b) suffer a ferocious dog to be at large without a muzzle; or
(c) set on or urge a dog or other animal to attack, worry or put in fear any person or house or other animal.

88. *Bathing or washing in places not set apart for those purposes.*—No person shall bathe or wash in, or by side of, a public well, tank or reservoir not set apart

for such purpose by order of the competent authority, or in, or by the side of, any pond, pool, aqueduct, part of a river, stream, nullah or other source or means of water supply in which such bathing or washing is forbidden by order of the competent authority.

89. *Defiling water in public wells, etc.*—No person shall defile or cause to be defiled the water in any public well, tank, reservoir, pond, pool, aqueduct or part of a river, stream, nullah or other source or means of water supply, so as to render the same less fit for any purpose for which it is set apart by the order of the competent authority.

90. *Obstructing bathers.*—No person shall obstruct or incommode a person bathing at a place set apart for the purpose by the order of the competent authority under section 88 by wilful intrusion or by using such place for any purpose for which it is not so set apart.

91. *Behaving indecently in public.*—No person shall wilfully and indecently expose his person in any street or public place or place of public resort or within sight of, and in such manner as to be seen from, any street or public place or place of public resort, whether from within any house or building or not, or use indecent language or behave indecently or riotously or in a disorderly manner in a street or public place or place of public resort or in any office, police station or station house.

92. *Obstructing or annoying passengers in the street.*—No person shall wilfully push, press, hustle or obstruct any passenger in a street or public or by violent movements, menacing gestures, wanton personal annoyance, screaming, shouting, wilfully frightening houses or cattle or otherwise, disturb the public peace or order.

93. *Misbehaviour with intent to provoke a breach of the peace.*—No person shall use in any street or public place any threatening, abusive or insulting words or behaviour with intent to provoke a breach of the peace or whereby a breach of the peace may be occasioned.

94. *Prohibition against flying kites, etc.*—No person shall fly a kite or any other thing so as to cause danger, injury or alarm to persons, animals or property.

95. *Committing nuisance in or near street etc.*—No person shall in or near to any street, public place or place of public resort—

- (a) commit a nuisance by easing himself; or
- (b) having the care or custody of any child under seven years of age, suffer such child to commit a nuisance as aforesaid; or
- (c) spit or throw any dust, ashes, refuse or rubbish so as to cause annoyance to any passer-by.

96. *Disregard of notice in public building.*—No person shall, in any court, police station, police office or building occupied by Government or building occupied by any local body, smoke, or spit in contravention of a notice, by the competent authority in charge of such place, displayed in such court, police station, police office or building.

97. *Penalties for offences under sections 80 to 96.*—Any person who contravenes any of the provisions of sections 80 to 96 (both inclusive) shall, on conviction, be punished with fine which may extend to one hundred rupees, or, in default of payment of such fine, with imprisonment for a term not exceeding eight days.

98. *Penalty for failure to keep in confinement cattle, etc.*—(1) Whoever allows any cattle which are his property or in his charge to stray in any street or to trespass upon any public or private property shall on conviction be punished—

- (a) for the first offence, with imprisonment for a term which may extend to one month, or with fine which may extend to three hundred rupees, or with both; and
 - (b) for the second or subsequent offence, with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.
- (2) The Metropolitan Magistrate trying an offence under sub-section (1) may order—
- (a) that the accused shall pay such compensation not exceeding two hundred and fifty rupees as such Magistrate considers reasonable to any

person for any damage proved to have been caused to his property or the produce of his land by the cattle under the control of the accused trespassing on his land; and

- (b) that the cattle in respect of which the offence has been committed shall be forfeited to the Government.

(3) Any compensation awarded under sub-section (2) may be recovered as if it were a fine imposed under this section.

(4) It shall be the duty of every police officer and it shall be lawful for any other person to seize and take to any cattle pound for confinement therein any cattle found straying in any street or trespassing upon any private or public property.

(5) Any fine imposed under this section may without prejudice to any other means of recovery provided by law, be recovered by sale of all or any of the cattle in respect of which the offence was committed, whether they are the property of the person convicted of the offence or were only in his charge when the offence was committed.

(6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (2 of 1974) the offence punishable under this section shall be cognizable.

99. *Punishment for cruelty to animals.*—Whoever in any place cruelly beats, goads, overworks, ill-treats or tortures or causes, or procures to be cruelly beaten, goaded, overworked, ill-treated or tortured, any animal shall, on conviction, be punished with imprisonment which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

100. *Wilful trespass.*—Whoever without satisfactory excuse wilfully enters or remains in or upon any dwelling-house or premises or land or ground attached thereto, or on any ground, building, monument or structure belonging to Government or used for public purposes, or on any vehicle, shall, on conviction, whether he causes any actual damage or not, be punished with imprisonment which may extend to seven days or with fine which may extend to one hundred rupees, or with both.

101. *False alarm of fire or damage to fire alarm.*—Whoever knowingly gives or causes to be given a false alarm of fire to the fire brigade of the Government or the Corporation or a municipality or to any officer or fireman thereof, whether by means of a street fire alarm, statement, message or otherwise, or with intent to give such false alarm wilfully breaks the glass of, or otherwise damages, a street fire alarm, shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to one hundred rupees, or with both.

102. *Being found under suspicious circumstances between sunset and sunrise.*—Whoever is found between sunset and sunrise—

- (a) armed with any dangerous instrument with intent to commit an offence; or
- (b) having his face covered, or otherwise disguised with intent to commit an offence; or
- (c) in any dwelling house or other building, or on any vehicle, without being able satisfactorily to account for his presence there; or
- (d) lying or loitering in any street, yard or other place, being a reputed thief and without being able to give a satisfactory account of himself; or
- (e) having in his possession without lawful excuse (the burden of proving which excuse shall be on such person) any implement of house breaking, shall, on conviction, be punished with imprisonment for a term which may extend to three months.

103. *Possession of property of which no satisfactory account can be given.*—Whoever has in his possession or conveys in any manner, or offers for sale or pawn, anything which there is reason to believe is stolen property or property fraudulently obtained, shall, if he fails to account for such possession or act to the satisfaction of the Metropolitan Magistrate, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to one hundred rupees, or with both.

104. Omission by pawnbrokers, etc., to report to police possession or tender of property suspected to be stolen.—Whoever being a pawn-broker, dealer in second hand property, or worker in metals, or reasonably believed by the Commissioner of Police to be such a person, and having received from a police officer written or printed information in relation to any property suspected to have been transferred by any offence mentioned in section 410 of the Indian Penal Code (45 of 1860) or by any offence punishable under section 417, section 418, section 419 or section 420 of the said Code, is found in possession, or, after the receipt of such information, comes into possession or has an offer, either by way of sale, pawn, exchange, or for custody, alteration or otherwise howsoever, made to him, of property answering the description contained in such information, shall, unless—

(i) he forthwith gives information to the Commissioner of Police, or at a police station of such possession or offers and takes all reasonable means to ascertain and to give information as aforesaid of the name and address of the person of the person from whom the possession or offer was received, or

(ii) the property, being an article of common wearing apparel or otherwise, is incapable of identification from the written or printed information given and has been in no way concealed after the receipt of such information,

on conviction, be punished with fine which may extend to fifty rupees in respect of each article of property so in his possession or offered to him.

105. Melting, etc., of property referred to in section 104.—Whoever having received such information as is referred to in section 104 alters, melts, defaces or puts away or causes or suffers to be altered, melted, defaced or put away, without the previous permission of the police, any such property as is referred to in that section shall, on proof that the same was stolen property within the meaning of section 410 of the Indian Penal Code (45 of 1860) or property in respect of which any offence punishable under section 417, section 418, section 419 or section 420 of the said Code has been committed, be punished with imprisonment for a term which may extend to three years or with fine, or with both.

106. Taking pledge from child.—Whoever takes from any child, not appearing to be above the age of fourteen years, any article whatsoever as a pawn, pledge or security for any sum of money lent, advanced or delivered to such child or without the knowledge and consent of the owner of the article buys from such child any article whatsoever, shall, on conviction, be punished with fine which may extend to one hundred rupees.

107. Suffering disorderly conduct at places of public amusement, etc.—Whoever, being the keeper of any place of public amusement or public entertainment, knowingly permits or suffers drunkenness or other disorderly behaviour or any gambling whatsoever, in such place, shall, on conviction, be punished with fine which may extend to one hundred rupees.

108. Cheating at games and gambling in street.—(1) Whoever by any fraud or unlawful device or malpractice in playing at or with cards, dice or other game or in taking part in the stakes or wagers, or in betting on the sides or hands of the players, or in wagering on the event of any game, sports, pastime or exercise, wins from any other person, for himself or any other or others, any sum of money or valuable thing, shall be deemed to have committed the offence of cheating within the meaning of section 415 of the Indian Penal Code (45 of 1860), and be liable to punishment accordingly.

(2) Whoever assembles with others, or joins any assembly, in a street assembled for the purpose of gambling or wagering shall, on conviction, be punished with fine which may extend to fifty rupees or may be released after a due admonition.

109. Penalty for disobedience to order under section 27.—Whoever contravenes, disobeys, opposes, or fails to conform to an order under section 27 requiring him to vacate any premises, shall, on conviction be punished with imprisonment which may extend to three months

or with fine which may extend to five hundred rupees or with both.

110. Penalty for contravening regulations, etc., under section 28.—Save as provided in section 112, whoever contravenes, or abets the contravention of, any regulation made under section 28 or any of the conditions of a licence issued under such regulation shall, on conviction, be punished—

(a) if the regulation was made under clause (b) of sub-section (1) of section 28 providing for the prohibition of the sale, or exposure for sale, of any goods on any street or portion thereof so as to cause obstruction to traffic or inconvenience to the public—

(i) for the first offence, with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both, and

(ii) for any subsequent offence, with imprisonment for a term which may extend to six months and with fine which may extend to five hundred rupees;

(b) if the regulation was made under clause (d), (h), (i) or (j), sub-clause (i) or (ii) of clause (s) or clause (v) of sub-section (1) of section 28, with imprisonment for a term which may extend to eight days, or with fine which may extend to fifty rupees, or with both;

(c) if the regulation was made under clause (o) or (p) of sub-section (1) of section 28, with fine which may extend to two hundred rupees; and

(d) if the regulation was made under any clause of sub-section (1) of section 28 and for the contravention of which no penalty is provided under clause (a), (b) or (c) of this section, with fine which may extend to fifty rupees.

111. Liability of licensee of place of public amusement or entertainment for acts of servants.—The holder of a licence granted under this Act in respect of a place of public amusement or public entertainment shall be responsible, as well as the actual offender for any offence under section 110 committed by his servant or other agent acting with his express or implied permission on his behalf as if he himself had committed the same, unless he establishes that all due and reasonable precautions were taken by him to prevent the commission of such offence.

112. Penalty for not obtaining licence in respect of place of public entertainment or certificate of registration in respect of eating house or for not renewing such licence or certificate within prescribed period.—(1) Whoever fails to obtain a licence under this Act in respect of a place of public entertainment or a certificate of registration thereunder in respect of any eating house, or to renew the licence or the certificate, as the case may be, within the prescribed period shall, on conviction, be punished with fine which may extend to fifty rupees.

(2) Any court trying any such offence shall in addition direct that the person keeping the place of public entertainment, or the eating house, in respect of which this offence has been committed shall close such place, or eating house until he obtains a licence or fresh licence, or a certificate of registration or fresh certificate of registration, as the case may be, in respect thereof and thereupon such person shall forthwith comply with such direction.

(3) If the person fails to comply with any such direction, he shall, on conviction, be punished with imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees or with both.

(4) Without prejudice to any action taken under sub-section (3), on the failure of such person to comply with the direction of the court, any police officer authorised by the Commissioner of Police, by an order in writing, may take or cause to be taken such steps and use or cause to be used such force as may, in the opinion of such officer, be reasonably necessary for securing compliance with the court's direction.

113. Penalties for contravention of orders, etc., under sections 29, 30, 31, 32, 33 and 34.—(1) Whoever contravenes, disobeys, opposes or fails to conform to any order

given by a police officer under section 29 shall, on conviction, be punished with fine which may extend to two hundred rupees.

(2) Whoever contravenes a notification or an order made under section 30, section 32, section 33 or section 34 or abets the contravention thereof shall, on conviction, be punished—

- (a) if the said notification or order was made under sub-section (1) of section 30 or under section 33 or section 34, with imprisonment for a term which not be less than four months but which may extend to one year, and shall also be liable to fine;

Provided that the court may, for adequate and sufficient reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than four months;

- (b) if the said order was made under sub-section (2) of section 30, with imprisonment for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both;
- (c) if the said notification was made under sub-section (3) of section 30, with fine which may extend to one hundred rupees; or
- (d) if the said order was made under section 32, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(3) Whoever opposes or fails to conform to any direction given by a police officer under section 31, shall, on conviction, be punished with fine which may extend to hundred rupees.

114. Penalty for contravention of regulations, etc., made under sections 35, 36 and 37.—Whoever contravenes, or abets the contravention of, any regulation, notice or order made under section 35, section 36 or section 37 shall, on conviction, be punished with imprisonment which may extend to three months, or with fine which extend to two hundred rupees, or with both.

115. Penalty for contravention of directions under section 46, 47 or 48.—Whoever opposes or fails to conform to any direction issued under section 46, section 47 or section 48 or abets the opposition to, or the failure to conform to, any such direction, shall, on conviction, be punished with imprisonment which shall not be less than four months but which may extend to one year and shall also be liable to fine.

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than four months.

116. Penalty for entering without permission area from which a person is directed to remove himself or over-staying when permitted to return temporarily.—Without prejudice to the power to arrest and remove a person in the circumstances, and in the manner provided in section 53, any person who—

- (a) in contravention of a direction issued to him under section 46, section 47 or section 48 enters or returns without permission to Delhi, or any part thereof, as the case may be, from which he was directed to remove himself; or
- (b) enters or returns to Delhi or any part thereof with permission granted under sub-section (1) of section 54, but fails, contrary to the provisions thereof, to remove himself outside such area at the expiry of the temporary period for which he was permitted to enter or return or on the earlier revocation of such permission, or having removed himself at the expiry of such temporary period or on revocation of the permission, enters or returns thereafter, without fresh permission,

shall, on conviction, be punished with imprisonment for a term which shall not be less than six months but which may extend to two years and shall also be liable to fine:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months.

117. Penalty for contravention of orders under section 57.—Whoever contravenes any order made under section 57 shall, on conviction, be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

118. Penalty for opposing or not complying with direction given under clause (b) of sub-section (1) of section 59.—Whoever opposes or fails forthwith to comply with any reasonable requisition made by a police officer under clause (b) of sub-section (1) of section 59, or abets the opposition thereto or failure to comply therewith, shall, on conviction, be punished with imprisonment for a term which shall not be less than four months but which may extend to one year and shall also be liable to fine:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than four months.

119. Penalty for contravening directions under section 65.—Whoever opposes or fails to conform to any direction given by any police officer under section 65 or abets the opposition or failure to conform to such direction shall, on conviction, be punished with fine which may extend to fifty rupees.

120. Dangerous performances.—(1) No person shall without the previous permission of the Commissioner of Police and except in accordance with any conditions subject to which such permission is granted, hold or give in any place which is likely to cause an assembly of persons, any performance in which or during which he buries himself under ground or seals himself in any room or receptacle or other thing, in such manner as to prevent all access of air to him and for such time as would ordinarily result in death by suffocation.

(2) If any person contravenes or attempts to contravene the provisions of sub-section (1), he shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine, or with both.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the offence punishable under this section shall be cognizable.

121. Neglect or refusal to serve as special Police Officer.—(1) Any person, who having been appointed to be a special police officer under section 17 shall without sufficient cause neglect or refuse to serve as such or to obey any lawful order or direction that may be given to him for the performance of his duties as such special police officer, shall, on conviction, be punished with fine which may extend to fifty rupees.

(2) Such punishment shall automatically cancel the certificate of appointment of such a special police officer.

122. Penalty for making false statement, etc., and for misconduct of police officers.—(a) Any person who makes a false statement or uses a false document for the purpose of obtaining employment or release from employment as a police officer, or

- (b) any police officer who
- (i) is guilty of cowardice, or
- (ii) being a police officer of subordinate rank, resigns his office or withdraws himself from duties thereof in contravention of section 25, or
- (iii) is guilty of any wilful breach or neglect of any provision of law or of any rule or regulation or any order which he bound to observe or obey, or
- (iv) is guilty of any violation of duty for which no, punishment is expressly provided by any other law in force,

shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Explanation.—A police officer who being absent on leave fails without reasonable cause to report himself for duty on the expiration such leave shall, for the purpose of sub-clause (ii) of clause (b), be deemed to withdraw himself from the duties of his office within the meaning of section 25.

123. Penalty for failure to deliver up certificate of appointment of other article.—Any police officer, who wilfully neglects or refuses to deliver up his certificate

of appointment or of office or any other article, in accordance with the provisions of sub-section (1) of section 26 shall, on conviction, be punished with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

124. Vexatious entry, search, arrest, etc., by Police Officer.—Any police officer who—

- (a) without lawful authority or reasonable cause enters or searches, or causes to be entered or searched, any building, vessel, tent or place; or
- (b) vexatiously and unnecessarily seizes the property of any person; or
- (c) vexatiously and unnecessarily detains, searches or arrests any person; or
- (d) offers any unnecessary personal violence to any person in his custody; or
- (e) holds out any threat or promise not warranted by law,

shall, for every such offence, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

125. Penalty for vexatious delay in forwarding a person arrested.—Any police officer who vexatiously and unnecessarily delays the forwarding of any person arrested to a Magistrate or to any other authority to whom he is legally bound to forward such person, shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

126. Penalty for unauthorised use of police uniforms.—If any person not being a member of the Delhi police wears, without the permission of an officer authorised by the Administrator in this behalf by general or special order, the uniform of the Delhi police or any dress having the appearance or bearing any of the distinctive marks of that uniform, he shall, on conviction, be punished with fine which may extend to two hundred rupees.

127. Power to make regulations regarding carrying weapons without authority.—(1) The Commissioner of Police may, by notification in the Official Gazette, make regulations to provide that no person, other than a member of the armed forces of the Union acting as such or a police officer, shall go armed with any sword, spear, bludgeon, gun or other offensive weapon or with any explosive or corrosive substance in any street or public place unless so authorised by such authority as may be specified in such regulations.

(2) Any regulation made under sub-section (1) may provide that any person who goes armed in contravention of such regulation shall be liable to be disarmed by any police officer and the weapon or substance so seized shall be forfeited to the Government, unless redeemed within two months by payment of such fine, not exceeding five hundred rupees, as the Commissioner of Police imposes.

128. Prosecution for certain offences against this Act to be in the discretion of Delhi police.—It shall not, except in obedience to a rule, regulation or order made by the Administrator or by the Commissioner of Police, be incumbent on the Delhi police to prosecute for an offence punishable under section 97, section 104, sub-section (1) of section 113, section 114, section 119 or section 121 when such offence has not occasioned serious mischief and has been promptly desisted from on a warning being given.

129. Summary disposal of certain cases.—(1) A court taking cognizance of an offence punishable under section 97, or under clause (a), (b) or (c) of section 110 may state upon the summons to be served on the accused person that he may, by a specified date, prior to the hearing of the charge plead guilty to the charge by registered letter and remit to the court such sum not exceeding one hundred rupees in the case of an offence punishable under section 97 and in any other case rupees fifty, as the court may specify.

(2) Where an accused person pleads guilty and remits the sum specified in the summons, under sub-section (1), no further proceedings in respect of the offence shall be taken against him.

130. Prosecution for offences under other enactments not affected.—Subject to the provisions contained in section 300 of the Code of Criminal Procedure, 1973

(2 of 1974), nothing in this Act shall be construed to prevent any person from being prosecuted and punished under any other law for anything made punishable by this Act or from being prosecuted and punished under this Act for anything made punishable under any other law.

131. Offences by companies.—(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to, any neglect on the part of any director, manager, secretary or, other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be punished against and punished accordingly.

Explanation.—For the purposes of this section,—

- (a) "company" means a body corporate, and includes a firm or other association of individuals; and
- (b) "director", in relation to a firm, means a partner in the firm.

CHAPTER XI

MISCELLANEOUS

132. Disposal of fees, rewards, etc.—All fees paid for licences or permissions granted under this Act, and all sums paid for the service of processes by police officers and all rewards, forfeitures and penalties or shares thereof, which are by law payable to police officers as informers shall, save in so far as any such fees or sums belong under the provisions of any enactment for the time being in force to any local authority be credited to the Government:

Provided that with the sanction of the Administrator or under any rule made by the Administrator in that behalf, the whole or any portion of any such reward, forfeiture or penalty may for special services, be paid to a police officer or be divided amongst two or more police officers.

133. Method of proving orders and notifications.—Any order or notification published or issued by the Administrator or by the Commissioner of Police or any other police officer under any provision of this Act, and the due publication or issue thereof may be proved by the production of a copy thereof in the Official Gazette, or of a copy thereof signed by the Administrator or Commissioner of Police or other police officer, as the case may be, and by him certified to be a true copy of an original published or issued according to the provisions of this Act applicable thereto.

134. Rules, regulations or orders not invalidated by defect of form or irregularity in procedure.—No rule, regulation, order, direction, adjudication, inquiry or notification made or published and no act done under any provision of this Act or any rule or regulation made under this Act, or in substantial conformity with the same, shall be deemed illegal, void, invalid or insufficient by reason of any defect of form or any irregularity of procedure.

135. Presumption in prosecutions for contravention of order made under section 48, 47 or 46.—Notwithstanding anything contained in any law for the time being in force, in a prosecution for an offence for the contravention of an order made under section 46, section 47 or section 48 on the production of an authentic copy of the order, it shall, until the contrary is proved by the accused, be presumed—

- (a) that the order was made by the authority competent under this Act to make it;
- (b) that the authority making the order was satisfied that the grounds on, or the purpose for, which it was made existed, and that it was necessary to make the same; and
- (c) that the order was otherwise valid and in conformity with the provisions of this Act.

136. *Officers holding charges of, or succeeding to, vacancies competent to exercise powers.*—Whenever in consequence of the office of the Commissioner of Police, Additional Commissioner of Police or any other police officer becoming vacant, any officer holds charge of the post of such Commissioner of Police, Additional Commissioner of Police or other police officer or succeeds, either temporarily or permanently, to that post, such officer shall be competent to exercise all the powers and perform all the duties respectively conferred and imposed by or under this Act on the Commissioner of Police or on such Additional Commissioner of Police or other police officer, as the case may be.

137. *Forfeiture of bond entered into by person under sub-section (1) of section 54.*—If any person permitted to enter or return to the area from which he was directed to remove himself under sub-section (1) of section 54, fails to observe any condition imposed under that sub-section or by the bond executed by him thereunder, his bond shall be forfeited and any person bound thereby shall pay the penalty thereof or show cause to the satisfaction of the court why such penalty should not be paid.

138. *No police officer to be liable to penalty or damage for act done in good faith in pursuance of duty.*—No police officer shall be liable to any penalty or to payment of any damages on account of an act done in good faith in pursuance of or purported to be done in pursuance of any duty imposed or any authority conferred on him by any provision of this Act or any other law for the time being in force or any rule, regulation, order or direction made or given thereunder.

139. *No public servant liable as aforesaid for giving effect in good faith to any rule, order or direction issued with apparent authority.*—No public servant or person duly appointed or authorised shall be liable to any penalty or to payment of any damages for giving effect in good faith to—

- (a) any order or direction issued with apparent authority by the Administrator or by a person empowered in that behalf under this Act; or
- (b) any rule or regulation made under this Act.

Explanation.—In this section, the expression “public servant” has the meaning assigned to it in section 21 of the Indian Penal Code (45 of 1860).

140. *Bar to suits and prosecutions.*—(1) In any case of alleged offence by a police officer or other person, or of a wrong alleged to have been done by such police officer or other person, by any act done under colour of duty or authority or in excess of any such duty or authority, or wherein it shall appear to the court that the offence or wrong if committed or done was of the character aforesaid, the prosecution or suit shall not be entertained and if entertained shall be dismissed if it is instituted, more than three months after the date of the complaint of:

Provided that any such prosecution against a police officer or other person may be entertained by the court, if instituted with the previous sanction of the Administrator, within one year from the date of the offence.

(2) In the case of an intended suit on account of such a wrong as aforesaid, the person intending to sue shall give to the alleged wrongdoer not less than one month's notice of the intended suit with sufficient description of the wrong complained of, and if no such notice has been given before the institution of the suit, it shall be dismissed.

(3) The plaint shall set forth that a notice as aforesaid has been served on the defendant and the date of such service and shall state what tender of amends, if any, has been made by the defendant and a copy of the said notice shall be annexed to the plaint endorsed or accompanied with a declaration by the plaintiff of the time and manner of service thereof.

141. *Licences and written permissions to specify conditions, etc., and to be signed.*—(1) Any licence or written permission granted under the provisions of this Act shall specify the period and locality for which, and the conditions and restrictions subject to which, the same is granted, and shall be given under the signature of the competent authority.

(2) Any licence or written permission granted under this Act may at any time be suspended or revoked by the competent authority if any of its conditions or restrictions are infringed or evaded by the person to whom it has been granted, or if such person is convicted or any offence with respect to any matter to which such licence or permission relates.

(3) When any such licence or written permission is suspended or revoked, or when the period for which the same was granted has expired, the persons to whom the same was granted shall, for all purposes of this Act, be deemed to be without a licence or written permission, until the order for suspending or revoking the same is cancelled, or until the same is renewed, as the case may be.

(4) Every person to whom any such licence or written permission has been granted shall, while the same remains in force, at all reasonable times, produce the same, if so required by a police officer.

Explanation.—For the purposes of this section any such infringement or evasion by, or conviction of, a servant or other agent acting on behalf of the person to whom the licence or written permission has been granted shall be deemed to be infringement or evasion or, as the case may be, conviction of, the person to whom such licence or written permission has been granted.

142. *Public notices how to be given.*—Any notification which may be publicly promulgated, public notice required to be given, order required to be notified publicly or proclamation required to be issued under any of the provisions of this Act shall be in writing, under the signature of a competent authority and shall be published in the locality to be affected thereby, by affixing copies thereof in conspicuous public places, or by proclaiming the same with beat of drums or by advertising, the same in such local newspapers in Hindi, Urdu and English, as the competent authority may deem fit, or by any two or more of these means and by any other means it may think suitable.

143. *Consent, etc., of a competent authority may be proved by writing under its signature.*—Whenever under this Act, the doing or the omitting to do anything or the validity of anything depends upon the consent, approval, declaration, opinion or satisfaction of the competent authority, a written document signed by the competent authority, purporting to convey or set forth such consent, approval, declaration, opinion or satisfaction shall be sufficient evidence thereon.

144. *Signature on notices, etc., may be stamped.*—Every licence, written permission, notice or other document, not being a summons or warrant or search warrant, required by this Act or by any rule or regulation made thereunder, to bear the signature of the Commissioner of Police, shall be deemed to be properly signed if it bears a facsimile of his signature stamped thereon.

145. *Persons interested may seek to annul, reserve or alter any rule or order.*—(1) In the case of any rule or order made by the Administrator under an authority conferred by this Act and requiring the public or a particular class of persons to perform some duty or act, or to conduct or order themselves or those under their control in a manner therein described, it shall be competent for any person interested to apply to the Administrator by a memorial to annul, reverse, or alter the rule or order aforesaid on the ground of its being unlawful, oppressive or unreasonable.

(2) After such an application as aforesaid and the rejection thereof wholly or in part or after the lapse of four months without an answer to such application or a decision thereon published by the Administrator, it shall be competent for the person interested and deeming the rule or order to be contrary to law to institute a suit in the principal civil court of original jurisdiction against the Administrator for a declaration that the rule or order is unlawful either wholly or in part.

(3) Where in any suit instituted under sub-section (2) or on appeal therefrom, the court adjudges a rule or order to be unlawful, the rule or order shall be annulled or so altered as to make it conformable to law.

146. Powers of Commissioner of Police under other Acts.—(1) The Commissioner of Police shall exercise all powers and discharge all functions which may be exercised or discharged by a District Magistrate under the Acts mentioned in Schedule I including the rules made thereunder.

(2) The Commissioner of Police may authorise any Additional Commissioner of Police, Deputy Commissioner of Police or Additional Deputy Commissioner of Police to exercise any of the powers or discharge any of the functions of the Commissioner of Police mentioned in sub-section (1) in accordance with the general or special orders of the Administrator.

(3) The powers and functions of a District Magistrate under Sarais Act, 1867 (22 of 1867), shall be exercised and discharged by the Administrator or such officer as the Administrator may, by notification in the Official Gazette, authorise in this behalf.

147. Power to make rules.—(1) The Administrator may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) recruitment to, and the pay, allowances and all other conditions of service of the members of, the Delhi police under clause (b) of section 5;
- (b) the manner of publication, under sub-section (2) of section 17, by the Commissioner of Police, of the names of special police officers appointed under that section;
- (c) awarding of any of the punishments referred to in sub-section (1) or sub-section (2) of section 21 to any police officer of subordinate rank;
- (d) procedure for awarding punishments under section 22;
- (e) form of Discharge Certificate under sub-section (8) of section 25;
- (f) determination of the cost of employing additional police under sub-section (2) of section 38;
- (g) manner of taking measurements and photographs under section 55 of a person against whom an order has been made under section 46, section 47 or section 48;
- (h) manner of constituting Defence Societies under sub-section (1) of section 58;
- (i) form of receipt to be given in respect of any article detained under section 62;
- (j) the authority to whose satisfaction claims are to be established under sub-section (2) of section 69 and the form and manner in which claims may be made under that sub-section, the procedure for dealing with such claims and all other matters connected therewith under sub-section (3) of that section;
- (k) payment to any police officer or division among two or more police officers the whole or any portion of any reward, forfeiture or penalty, under the proviso to section 132;
- (l) any other matter which has to be, or may be, prescribed, or provided for by rules, under this Act.

148. Notification of rules and regulations in the Official Gazette and laying of rules and regulations.—(1) Every rule and regulation made under this Act shall be made by notification in the Official Gazette.

(2) Every rule and regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, as the case may be, or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so,

however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

(3) Every rule and regulation made under this Act shall also be laid before the Metropolitan Council of Delhi.

149. Cesser of operation of certain enactments and savings.—(1) On the commencement of this Act, the enactments specified in Schedule II shall cease to be in force in Delhi:

Provided that—

- (i) all rules and standing orders made (including the Punjab Police Rules, as in force in Delhi), appointments made, powers conferred, orders made or passed, directions and certificates issued, consent, permit, permission or licence given, summons or warrants issued or served, persons arrested or detained or discharged on bail or bond, search warrants issued, bonds forfeited and penalties incurred under any such enactment shall, in so far as they are consistent with this Act, be deemed to have been respectively made, conferred, passed, given, issued, served, arrested, detained, discharged, forfeited or incurred under this Act;
- (ii) all references in any enactment to any of the provisions of the enactments so ceasing to be in force shall, in relation to Delhi, be construed as references to the corresponding provisions of this Act.
- (2) The cesser of operation under sub-section (1) of an enactment specified in Schedule II shall not affect—
 - (a) the validity, invalidity effect or consequence of anything done or suffered to be done thereunder before the commencement of this Act;
 - (b) any right, privilege, obligation or liability already acquired, accrued or incurred thereunder before such commencement;
 - (c) any penalty, forfeiture or punishment incurred or inflicted in respect of any act thereunder before such commencement;
 - (d) any investigation, legal proceeding or remedy in respect of such right, privilege, obligation liability, penalty, forfeiture or punishment; or
 - (e) any legal proceeding thereunder pending in any court or before any officer immediately before such commencement or anything done or suffered to be done in the course of such proceedings, and any such proceeding or any appeal or revisional proceedings arising out of such proceeding shall save as otherwise expressly provided in section 150 be instituted, continued or disposed of, as the case may be, as if this Act had not been enacted.

150. Police force functioning in Delhi immediately before the commencement of this Act to be deemed to be police force constituted under this Act.—Without prejudice to the provisions contained in section 149,—

- (a) the police force functioning in Delhi immediately before the commencement of this Act (hereafter in this section referred to as the existing police force) shall, on such commencement, be deemed to be police force constituted under this Act and every member of the existing police force holding the office mentioned in column (1) of Schedule III, immediately before such commencement, shall be deemed to be appointed, on such commencement, to the office mentioned in the corresponding entry in column (2) of that Schedule;
- (b) all proceedings (including proceedings by way of investigations) pending before any police officer of the existing police force, immediately before the commencement of this Act shall on such commencement be deemed to be proceedings pending before him in his capacity as the holder of the office to which he is deemed to be appointed under clause (a) and shall be dealt with accordingly;
- (c) where, any power or function which may be exercised or discharged under any law by a District Magistrate or Executive Magistrate immediately before the commencement of this Act has been conferred on the Commissioner of Police or

any other police officer by or under this Act, all proceedings in relation to or arising from the exercise of such power or the discharge of such function pending immediately before such conferment before the District Magistrate, or the Executive Magistrate, as the case may be, shall, on the conferment of such power or function on the Commissioner of Police or other police officer stand transferred to the Commissioner of Police or other police officer, as the case may be, and the officer to whom such proceedings stand so transferred shall either proceed *de novo* or from the stage of such transfer.

15. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Act in consequence of the transition to the said provisions from the provisions of the enactments mentioned in Schedule II, the Central Government may, by notification in the Official Gazette, make such provisions as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such notification shall be issued after the expiry of two years from the commencement of this Act.

(2) Every notification issued under this section shall, as soon as may be after it is issued, be laid before each House of Parliament.

152. Repeal and saving.—(1) The Delhi Police Ordinance, 1978 (Ord. 2 of 1978) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.

SCHEDULE I

[See section 146 (1)]

PART I

CENTRAL ACTS

1. The Press and Registration of Books Act, 1867.
2. The Indian Explosives Act, 1884.
3. The Indian Lunacy Act, 1912.
4. The Poisons Act, 1919.
5. The Police (Incitement to Disaffection) Act, 1922.
6. The Cinematograph Act, 1952.
7. The Suppression of Immoral Traffic in Women and Girls Act, 1956.
8. The Arms Act, 1959.
9. The Prevention of Cruelty to Animals Act, 1960.

PART II

DELHI ACT AND ACTS EXTENDED TO DELHI

1. The Madras Restriction of Habitual Offenders Act, 1948, as in force in Delhi.
2. The Punjab Security of State Act, 1953, as in force in Delhi.
3. The Madras Dramatic Performances Act, 1954, as in force in Delhi.
4. The Delhi Public Gambling Act, 1955.
5. The Bombay Prevention of Begging Act, 1959, as in force in Delhi.

SCHEDULE II

(See section 149)

Year	No.	Short title
1861	V	The Police Act, 1861.
1872	IV	Section 40 of the Punjab Laws Act, 1872, as in force in Delhi.
1951	XXII	The provisions of the Bombay Police Act, 1951, as in force in Delhi.

SCHEDULE III

(See section 150)

Designation of officer in the Delhi Police	Posts to which the officers of the Delhi police shall be deemed to be appointed
1. Inspector General of Police.	Commissioner of Police.
2. Deputy Inspector General of Police.	Additional Commissioner of Police.
3. Superintendent of Police.	Deputy Commissioner of Police.
4. Assistant Inspector General of Police.	Deputy Commissioner of Police.
5. Additional Superintendent of Police.	Additional Deputy Commissioner of Police.
6. Assistant Superintendent of Police.	Assistant Commissioner of Police.
7. Deputy Superintendent of Police.	Assistant Commissioner of Police.

Assented to on 30-8-1978.

THE TOBACCO BOARD (AMENDMENT) ACT, 1978

(ACT No. 36 OF 1978)

AN

ACT

to amend the Tobacco Board Act, 1975.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows.

1. Short title.—This Act may be called the Tobacco Board (Amendment) Act, 1978.

2. Amendment of section 4.—In section 4 of the Tobacco Board Act, 1975 (4 of 1975) hereinafter referred to as the principal Act,—

(a) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The head office of the Board shall be at Guntur in the State of Andhra Pradesh and the Board may, with the previous approval of the Central Government, establish offices or agencies at other places in or outside India.”;

(b) in sub-section (4),—

(A) in clause (c),—

(i) for the word “seven”, the word “eight” shall be substituted;

(ii) in sub-clause (vi), the word “and” occurring at the end shall be omitted;

(iii) after sub-clause (vi), the following sub-clause shall be inserted, namely:—

“(vii) the Government of Gujarat; and”;

(B) in clause (d), for the words “other than the states of Andhra Pradesh and Karnataka”, the words “other than the states of Andhra Pradesh, Gujarat and Karnataka” shall be substituted.

3. Amendment of section 8.—In section 8 of the principal Act, in sub-section (2), after clause (c), the following clause shall be inserted, namely:—

“(cc) establishment by the Board of auction platforms, with the previous approval of the Central Government, for the sale of virginia tobacco by registered growers or curers, and functioning of the Board as an auctioneer at auction platforms established by or registered with it subject to such conditions as may be specified by the Central Government.”;

4. Amendment of section 13.—In section 13 of the principal Act, the words “or established by the Board under this Act” shall be inserted at the end.

5. Insertion of new section 14A.—After section 14 of the principal Act, the following section shall be inserted, namely:—

“14A. Power to levy fees.—(1) Where virginia tobacco is sold at any auction platform established

by the Board under this Act, it shall be competent for the Board or for any officer of the Board authorised by it in this behalf to levy fees, for the services rendered by the Board in relation to such sale, at such rate not exceeding two per cent of the value of such tobacco as the Central Government may, from time to time, by notification in the Official Gazette, specify.

(2) The fees levied under sub-section (1) shall be collected by the Board or such officer, equally from the seller of the virginia tobacco and the purchaser of such tobacco, in such manner as may be prescribed."

6. *Amendment of section 32.*—In section 32 of the principal Act, in sub-section (2), after clause (h), the following clause shall be inserted, namely:—

"(hh) the manner of collection of fees under sub-section (2) of section 14A;"

7. *Amendment of Act 26 of 1975.*—In the Tobacco Cess Act, 1975,—

(a) in section 2, in sub-section (1),—

(i) clauses (a) and (b) shall be re-lettered as clauses (b) and (c) respectively and before clause (b) as so re-lettered, the following clause shall be inserted, namely:—

"(a) 'auction platform' means an auction platform registered with the Board in accordance with the rules made under the Tobacco Board Act, 1975 (4 of 1975) or established by the Board under that Act;"

(ii) clause (c) shall be omitted;

(b) in section 3, for the words "a registered auction platform" wherever they occur, the words "an auction platform" shall be substituted.

Assented to on 7-9-1978.

THE PRESS COUNCIL ACT, 1978

(ACT No. 37 of 1978)

AN
ACT

to establish a Press Council for the purpose of preserving the freedom of the Press and of maintaining and improving the standards of newspapers and news agencies in India.

Be it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

CHAPTER I PRELIMINARY

1. *Short title and extent.*—(1) This Act may be called the Press Council Act, 1978.

(2) It extends to the whole of India.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "Chairman" means the Chairman of the Council;

(b) "Council" means the Press Council of India established under section 4;

(c) "member" means a member of the Council and includes its Chairman;

(d) "prescribed" means prescribed by rules made under this Act;

(e) the expressions "editor" and "newspaper" have the meanings respectively assigned to them in the Press and Registration of Books Act, 1867 (25 of 1867), and the expression "working journalist" has the meaning assigned to it in the Working Journalists and other News-Paper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 (45 of 1955).

3. *Rule of construction respecting enactments not extending to the State of Jammu and Kashmir or Sikkim.*—Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir or Sikkim shall,

in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.

CHAPTER II

ESTABLISHMENT OF THE PRESS COUNCIL

4. *Incorporation of the Council.*—(1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established a Council by the name of the Press Council of India.

(2) The said Council shall be a body corporate having perpetual succession and a common seal and shall, by the said name sue and be sued.

5. *Composition of the Council.*—(1) The Council shall consist of a Chairman and twenty-eight other members.

(2) The Chairman shall be a person nominated by a Committee consisting of the Chairman of the Council of States (Rajya Sabha), the Speaker of the House of the People (Lok Sabha) and a person elected by the members of the Council under sub-section (6) and the nomination so made shall take effect from the date on which it is notified by the Central Government in the Official Gazette.

(3) Of the other members—

(a) thirteen shall be nominated in accordance with such procedure as may be prescribed from among the working journalists, of whom six shall be editors of newspapers and the remaining seven shall be working journalists other than editors, so, however, that the number of such editors and working journalists other than editors in relation to newspapers published in Indian languages shall be not less than three and four respectively;

(b) six shall be nominated in accordance with such procedure as may be prescribed from among persons who own or carry on the business of management of newspapers, so, however, that there shall be two representatives from each of the categories of big newspapers, medium newspapers and small newspapers;

(c) one shall be nominated in accordance with such procedure as may be prescribed from among persons who manage news agencies;

(d) three shall be persons having special knowledge or practical experience in respect of education and science, law, and literature and culture of whom respectively one shall be nominated by the University Grants Commission, one by the Bar Council of India and one by the Sahitya Academy;

(e) five shall be members of Parliament of whom three shall be nominated by the Speaker from among the members of the House of the People (Lok Sabha) and two shall be nominated by the Chairman of the Council of States (Rajya Sabha) from among its members;

Provided that no working journalist who owns, or carries on the business of management of, any newspaper shall be eligible for nomination under clause (a);

Provided further that the nominations under clause (a) and clause (b) shall be so made that among the persons nominated there is not more than one person interested in any newspaper or group of newspapers under the same control or management.

Explanation.—For the purposes of clause (b), a "newspaper" shall be deemed to be—

(i) "big newspaper" if the total circulation of all its editions exceeds fifty thousand copies for each issue;

(ii) "medium newspaper" if the total circulation of all its editions exceeds fifteen thousand copies but does not exceed fifty thousand copies for each issue;

(iii) "small newspaper" if the total circulation of all its editions does not exceed fifteen thousand copies for each issue.

(4) Before making any nomination under clause (a), clause (b) or clause (c) of sub-section (3), the Central Government in the case of the first Council and the retiring Chairman of the previous Council in the case of any subsequent Council shall, in the prescribed manner,

invite panels of names comprising twice the number of members to be nominated from such associations of persons of the categories referred to in the said clause (a), clause (b) or clause (c) as may be notified in this behalf by the Central Government in the case of the first Council and by the Council itself in the case of subsequent Councils;

(4) Provided that where there is no association of persons of the category referred to in the said clause (c), the panels of names shall be invited from such news agencies as may be notified as aforesaid.

(5) The Central Government shall notify the names of persons nominated as members under sub-section (3) in the Official Gazette and every such nomination shall take effect from the date on which it is notified.

(6) The members of the Council notified under sub-section (5) shall elect from among themselves in accordance with such procedure as may be prescribed, a person to be a member of the Committee referred to in sub-section (2) and a meeting of the members of the Council for the purpose of such election shall be presided over by a person chosen from among themselves.

6. *Term of office and retirement of members.*—(1) Save as otherwise provided in this section, the Chairman and other members shall hold office for a period of three years:

Provided that the Chairman shall continue to hold such office until the Council is reconstituted in accordance with the provisions of section 5 or for a period of six months whichever is earlier.

(2) Where a person nominated as a member under clause (a), clause (b) or clause (c) of sub-section (3) of section 5 is censured under the provisions of sub-section (1) of section 14, he shall cease to be a member of the Council.

(3) The terms of office of a member nominated under clause (e) of sub-section (3) of section 5 shall come to an end as soon as he ceases to be a member of the House from which he was nominated.

(4) A member shall be deemed to have vacated his seat if he is absent without excuse, sufficient in the opinion of the Council, from three consecutive meetings of the Council.

(5) The Chairman may resign his office by giving notice in writing to the Central Government, and any other member may resign his office by giving notice in writing to the Chairman, and upon such resignation being accepted by the Central Government, or as the case may be, the Chairman, the Chairman or the member shall be deemed to have vacated his office.

(6) Any vacancy arising under sub-section (2), sub-section (3), sub-section (4) or sub-section (5) or otherwise shall be filled, as soon as may be, by nomination in the same manner in which the member vacating office was nominated and the member so nominated shall hold office for the remaining period in which the member in whose place he is nominated would have held office.

(7) A retiring member shall be eligible for re-nomination for not more than one term.

7. *Conditions of service of members.*—(1) The Chairman shall be a whole-time officer and shall be paid such salary as the Central Government may think fit; and the other members shall receive such allowances or fees for attending the meetings of the Council, as may be prescribed.

(2) Subject to the provisions of sub-section (1)—the conditions of service of members shall be such as may be prescribed.

(3) It is hereby declared that the office of a member of the Council shall not disqualify its holder for being chosen as, or for being, a member of either House of Parliament.

8. *Committees of the Council.*—(1) For the purpose of performing its functions under this Act, the Council may constitute from among its members such committees for general or special purposes as it may deem necessary and every committee so constituted shall perform such functions as are assigned to it by the Council.

(2) The Council shall have the power to co-opt as members of any committee constituted under sub-section (1) such other number of persons, not being members of the Council, as it thinks fit.

(3) Any such member shall have the right to attend any meeting of the Committee on which he is so co-opted and to take part in the discussions thereat, but shall not have the right to vote and shall not be a member for any other purpose.

9. *Meetings of the Council and Committees.*—The Council or any committee thereof shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be provided by regulations made under this Act.

10. *Vacancies among members or defect in the constitution not to invalidate acts and proceedings of the Council.* No act or proceeding of the Council shall be deemed to be invalid by reason merely of the existence of any vacancy in, or any defect in the constitution of the Council.

11. *Staff of the Council.*—(1) Subject to such rules as may be made by the Central Government in this behalf, the Council may appoint a Secretary and such other employees as it may think necessary for the efficient performance of its functions under this Act.

(2) The terms and conditions of service of the employees shall be such as may be determined by regulations.

12. *Authentication of orders and other instruments of the Council.*—All orders and decisions of the Council shall be authenticated by the signature of the Chairman or any other member authorised by the Council in this behalf and other instruments issued by the Council shall be authenticated by the signature of the Secretary or any other officer of the Council authorised in like manner in this behalf.

CHAPTER III

POWERS AND FUNCTIONS OF THE COUNCIL

13. *Objects and functions of the Council.*—(1) The objects of the Council shall be to preserve the freedom of the Press and to maintain and improve the standards of newspapers and news agencies in India.

(2) The Council may, in furtherance of its objects, perform the following functions, namely:—

- (a) to help newspapers and news agencies to maintain their independence;
- (b) to build up a code of conduct for newspapers, news agencies and journalists in accordance with high professional standards;
- (c) to ensure on the part of newspapers, news agencies and journalists, the maintenance of high standards of public taste and foster a due sense of both the rights and responsibilities of citizenship;
- (d) to encourage the growth of a sense of responsibility and public service among all those engaged in the profession of journalism;
- (e) to keep under review any development likely to restrict the supply and dissemination of news of public interest and importance;
- (f) to keep under review cases of assistance received by any newspaper or news agency in India from any foreign source including such cases as are referred to it by the Central Government or are brought to its notice by any individual, association of persons or any other organisation;

Provided that nothing in this clause shall preclude the Central Government from dealing with any case of assistance received by a newspaper or news agency in India from any foreign source in any other manner it thinks fit;

- (g) to undertake studies of foreign newspapers, including those brought out by any embassy or other representative in India of a foreign State, their circulation and impact.

Explanation.—For the purposes of this clause, the expression "foreign State" has the meaning assigned to it in section 87A of the Code of Civil Procedure, 1908 (5 of 1908);

(h) to promote a proper functional relationship among all classes of persons engaged in the production or publication of newspapers or in news agencies;

Provided that nothing in this clause shall be deemed to confer on the Council any functions in regard to disputes to which the Industrial Disputes Act, 1947 (14 of 1947), applies;

(i) to concern itself with developments such as concentration of or other aspects of ownership of newspapers and news agencies which may affect the independence of the Press;

(j) to undertake such studies as may be entrusted to the Council and to express its opinion in regard to any matter referred to it by the Central Government;

(k) to do such other acts as may be incidental or conducive to the discharge of the above functions.

14. Power to censure.—(1) Where, on receipt of a complaint made to it or otherwise, the Council has reason to believe that a newspaper or news agency has offended against the standards of journalistic ethics or public taste or that an editor or a working journalist has committed any professional misconduct, the Council may, after giving the newspaper, or news agency, the editor or journalist concerned an opportunity of being heard, hold an inquiry in such manner as may be provided by regulations made under this Act and, if it is satisfied that it is necessary so to do, it may, for reasons to be recorded in writing, warn, admonish or censure the newspaper, the news agency, the editor or the journalist or disapprove the conduct of the editor or the journalist, as the case may be:

Provided that the Council may not take cognizance of a complaint if in the opinion of the Chairman, there is no sufficient ground for holding an inquiry.

(2) If the Council is of the opinion that it is necessary or expedient in the public interest so to do, it may require any newspaper to publish therein in such manner as the Council thinks fit, any particulars relating to any inquiry under this section against a newspaper or news agency, an editor or a journalist working therein, including the name of such newspaper, news agency, editor or journalist.

(3) Nothing in sub-section (1) shall be deemed to empower the Council to hold an inquiry into any matter in respect of which any proceeding is pending in a court of law.

(4) The decision of the Council under sub-section (1), or sub-section (2), as the case may be, shall be final and shall not be questioned in any court of law.

15. General powers of the Council.—(1) For the purpose of performing its functions or holding any inquiry under this Act, the Council shall have the same powers throughout India as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of persons and examining them on oath;

(b) requiring the discovery and inspection of documents;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copies thereof from any court or office;

(e) issuing commissions for the examination of witnesses or documents; and

(f) any other matter, which may be prescribed.

(2) Nothing in sub-section (1) shall be deemed to compel any newspaper, news agency, editor or journalist to disclose the source of any news or information published by that newspaper or received or reported by that news agency, editor or journalist.

(3) Every inquiry held by the Council shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1960).

(4) The Council may, if it considers it necessary for the purpose of carrying out its objects or for the performance of any of its functions under this Act, make such observations, as it may think fit, in any of its decisions or

reports, respecting the conduct of any authority, including Government.

16. Levy of fees.—(1) The Council may, for the purpose of performing its functions under this Act, levy such fees, at such rates and in such manner, as may be prescribed, from registered newspapers and news agencies and different rates may be prescribed for different newspapers having regard to their circulation and other matters.

(2) Any fees payable to the Council under sub-section (1) may be recovered as an arrear of land revenue.

17. Payments to the Council.—The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Council by way of grants such sums of money as the Central Government may consider necessary for the performance of the functions of the Council under this Act.

18. Funds of the Council.—(1) The Council shall have its own fund; and the fees collected by it, all such sums as may, from time to time, be paid to it by the Central Government and all grants and advances made to it by any other authority or person shall be credited to the Fund and all payments by the Council shall be made therefrom.

(2) All moneys belonging to the Fund shall be deposited in such banks or invested in such manner as may, subject to the approval of the Central Government, be decided by the Council.

(3) The Council may spend such sums as it thinks fit for performing its functions under this Act, and such sums shall be treated as expenditure payable out of the Fund of the Council.

19. Budget.—The Council shall prepare, in such form and at such time each year as may be prescribed, a budget in respect of the financial year next ensuing showing the estimated receipts and expenditure, and copies thereof shall be forwarded to the Central Government.

20. Annual report.—The Council shall prepare once every year, in such form and at such time as may be prescribed, an annual report, giving a summary of its activities during the previous year, and giving an account of the standards of newspapers and news agencies and factors affecting them, and copies thereof, together with the statement of accounts audited in the manner prescribed under section 22 shall be forwarded to the Central Government and the Government shall cause the same to be laid before both Houses of Parliament.

21. Interim reports.—Without prejudice to the provisions of section 20, the Council may prepare at any time during the course of a year, a report giving a summary of such of its activities during the year as it considers to be of public importance and copies thereof shall be forwarded to the Central Government and the Government shall cause the same to be laid before both Houses of Parliament.

22. Accounts and audit.—The accounts of the Council, shall be maintained and audited in such manner as may, in consultation with the Comptroller and Auditor-General of India, be prescribed.

CHAPTER IV

MISCELLANEOUS

23. Protection of action taken in good faith.—(1) No suit or other legal proceeding shall lie against the Council or any member thereof or any person acting under the direction of the Council in respect of anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against any newspaper in respect of the publication of any matter therein under the authority of the Council.

24. Members, etc., to be public servants.—Every member of the Council and every officer or other employee appointed by the Council shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

25. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act:

Provided that when the Council has been established, no such rules shall be made without consulting the Council.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the procedure for nomination of members of the Council under clauses (a), (b) and (c) of sub-section (3) of section 5;
 - (b) the manner in which panels of names may be invited under sub-section (4) of section 5;
 - (c) the procedure for election of a member of the Committee referred to in sub-section (2) of section 5 under sub-section (6) of that section;
 - (d) the allowances or fees to be paid to the members of the Council for attending the meetings of the Council, and other conditions of service of such members under sub-sections (1) and (2) of section 7;
 - (e) the appointment of the Secretary and other employees of the Council under section 11;
 - (f) the matters referred to in clause (f) of sub-section (1) of section 15;
 - (g) the rates at which fees may be levied by the Council under section 16 and the manner in which such fees may be levied;
 - (h) the form in which, and the time within which, the budget and annual report are to be prepared by the Council under sections 19 and 20 respectively;
 - (i) the manner in which the accounts of the Council are to be maintained and audited under section 22.
- (3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry

of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

26. Power to make regulations.—The Council may make regulations not inconsistent with this Act and the rules made thereunder, for—

- (a) regulating the meetings of the Council or any committee thereof and the procedure for conducting the business thereat under section 9;
- (b) specifying the terms and conditions of service of the employees, appointed by the Council, under sub-section (2) of section 11;
- (c) regulating the manner of holding any inquiry under this Act;
- (d) delegating to the Chairman or the Secretary of the Council, subject to such conditions as it may think fit to impose, any of its powers under sub-section (3) of section 18;
- (e) any other matter for which provision may be made by regulations under this Act:

Provided that the regulations made under clause (b) shall be made only with the prior approval of the Central Government.

27. Amendment of Act 25 of 1867.—In sub-section (1) of section 8C of the Press and Registration of Books Act, 1867, for the words "consisting of a Chairman and another member to be appointed by the Central Government", the words and figures "consisting of a Chairman and another member to be nominated by the Press Council of India, established under section 4 of the Press Council Act, 1978, from among its members" shall be substituted.

भाग 7—भारतीय निर्वाचन आयोग (Election Commission of India) को वंशान्तिक अधिसूचनाएं तथा अन्य निर्वाचन सम्बन्धी अधिसूचनाएं

शून्य

अनुपूरक

शून्य

PART V

ब्रह्मदालत श्री के० एल० गौतम, ब्रह्मखत्यारात एमिस्टेट कुलैक्टर, पालमपुर, तहसील पालमपुर, जिला कोमडा

सु० नं० 21/1973/वि० 9-1-1978

दावा u/s 58 (3) read with section 34(1) H. P. Tenancy and Land Reforms Act, 1974 for the Khata No. 140, Khaturi No. 262, Khatra No. 146/1 रकबा 4 कनाल जमाबन्दी 1968-69 दोका टांडा, मौजा बनूरी, तहसील पालमपुर।

श्री गंगू पुत्र बोरू, भाकन टांडा पारला, मौजा बनूरी, तहसील पालमपुर।

बनाम

(1) भूख पुत्र बेली, (2) मयूर पुत्र दिगु, (3) सिधू पुत्र बोरू, (4) रतो, (5) सुच राम, (6) साधू पुत्रान व (7) दुर्गी, (8) मंडी, (9) विद्या पुत्रीयान, (10) क्यासां विधवा संकर टिका टांडा, मौजा बनूरी, तहसील पालमपुर।

उपरोक्त मुकदमा में सायल ने बंदवली का दावा दायर किया है जोकि हमारी अदालत में जेर समाप्त है मसलमलयम की तामील आम तरीका से न हो रही है इसलिये बजरिया इस्तहार मसलमलयम को सूचित किया जाता है कि वह मसलमलयम या बकालनन

तिथि 9-1-79 को प्रातः 10 बजे हाजर अदालत हुआ होकर पंजीवी मुकदमा करें वरना उन के खिलाफ कार्यवाही जाहना अमल में लाई जावेगी।

आज मिति 12-12-1978 को मेरे हस्ताक्षर व माहुर अदालत से जारी हुआ।

के० एल० गौतम,
एमिस्टेट कुलैक्टर, पालमपुर।

THE BAR COUNCIL OF HIMACHAL PRADESH SIMLA

For the existing Rule 51 of the Bar Council of Punjab (Constitution and Conduct of Business) Rules, 1963, which are applicable to the Bar Council of Himachal Pradesh, substitute the following:—

51. Quorum of Committees.—The quorum for the meeting of a Committee shall be three except in the case of the Enrolment Committee, Rule 3 Drafting Committee and Committee for Financial Assistance to Indigent and Disabled Advocates, for which the quorum shall be two.

This Rule shall not apply to the Disciplinary Committee.

BHIM SEN,
Hon'y. Secretary